

Architectural and Engineering Consultant Services Sample Agreement

Article 5 Section C and Articles 24 through 39 and Appendices F, J, K, L and M only apply to CONSULTANTS who are eligible for Federal funding, as indicated in Appendix B Scope.

Article 2 Section O and Article 6 Section A (alternate) only applies to CONSULTANTS who are eligible for Staff Augmentation Services.

Contents

1.	OBLIGATIONS OF THE CONSULTANT	4
2.	OBLIGATIONS OF THE COUNTY.....	7
O.	Staff Augmentation.....	9
3.	TERM OF AGREEMENT	10
4.	TERMINATION	10
A.	Non-Allocation of Funds / Funding Requirements	10
B.	Breach of Contract.....	10
C.	Without Cause.....	11
5.	COMPENSATION, ALLOWABLE COSTS AND PAYMENTS	11
A.	Maximum Cumulative Amount Available	11
B.	Consultant Fee	12
C.	Not used	14
C.	Indirect Cost Rate	14
D.	Retention.....	15
E.	Payments	15
F.	Notice to Proceed / Task Orders / Project Cost Proposal	17
6.	INDEPENDENT CONTRACTOR	18
7.	MODIFICATION / CHANGE IN TERMS.....	19
8.	NON-ASSIGNMENT	20
9.	HOLD HARMLESS	20
10.	LIABILITY INSURANCE.....	21
A.	Commercial General Liability.....	21
B.	Automobile Liability.....	22
C.	Professional Liability Insurance:.....	22
D.	Worker's Compensation	22
E.	Additional Requirements Relating to Insurance.....	22
11.	AUDITS / RETENTION OF RECORD.....	24
12.	NOTICES	25
13.	GOVERNING LAW	25
14.	DISCLOSURE OF SELF-DEALING TRANSACTIONS	25
15.	ELECTRONIC SIGNATURE	26
16.	SUBCONSULTANTS	27
I.	Prompt Progress Payment	28
J.	Prompt Payment of Withheld Funds to Subconsultants	29
17.	CONFLICT OF INTEREST	30
18.	ERRORS OR OMISSIONS CLAIMS AND DISPUTES	32

19.	OWNERSHIP OF DATA	34
20.	CONSULTANT'S LEGAL AUTHORITY	36
21.	BINDING UPON SUCCESSORS.....	36
22.	SEVERABILITY.....	36
23.	STATE PREVAILING WAGE RATES	37
C.	Payroll Records	37
E.	Penalty	39
F.	Hours of Labor	41
G.	Employment of Apprentices	42
24.	DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION	42
F.	Contract Assurance	44
G.	Termination and Substitution of DBE Subconsultants	45
H.	Commitment and Utilization.....	46
25.	COST PRINCIPLES.....	49
26.	AUDIT REVIEW PROCEDURES	49
27.	EQUIPMENT PURCHASE	52
28.	REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION.....	53
29.	PROHIBITION OF EXPENDING COUNTY STATE OR FEDERAL FUNDS FOR LOBBYING	53
30.	NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE	54
31.	DEBARMENT AND SUSPENSION CERTIFICATION	56
32.	FUNDING REQUIREMENTS.....	57
33.	CONTINGENT FEES	57
34.	INSPECTION OF WORK	58
35.	SAFETY	58
36.	CLAIMS FILED BY THE COUNTY'S CONSTRUCTION CONTRACTOR	59
37.	CONFIDENTIALITY OF DATA.....	59
38.	NATIONAL LABOR RELATIONS BOARD CERTIFICATION.....	60
39.	EVALUATION OF THE CONSULTANT	60
40.	ENTIRE AGREEMENT	61
41.	SIGNATURES.....	62

Appendices

- Appendix A – Listing of all consultants, including CONSULTANT'S "Project Manager"
- Appendix B – Scope
- Appendix C – Project Team
- Appendix D – Deliverables
- Appendix E – Cost Proposal
- Appendix F – Indirect Cost Rate (ICR) Form(s)
- Appendix G – Self Dealing Transaction Disclosure Form
- Appendix H – Subconsultants
- Appendix I – Conflict of Interest Code
- Appendix J – DBE Programs
- Appendix K – DBE Forms
- Appendix L – Disclosure Form to Report Lobbying
- Appendix M – Debarment and Suspension Certification

CONSULTANT AGREEMENT

THIS AGREEMENT for Architectural and Engineering Consultant Services, hereinafter referred to as "AGREEMENT," is made and entered into this _____ day of 2022, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY"; and _____, a _____ (Type of business), whose address is _____ hereinafter referred to as "CONSULTANT".

Recitals

WHEREAS, the COUNTY desires to retain the CONSULTANT as one of a number of consultant firms to provide, pursuant to separate agreements, on-call architectural and engineering consulting services and/or staff augmentation consulting services, encompassing architectural, structural, mechanical, transportation, environmental, water resources, surveying, geotechnical, materials testing and such other architectural and engineering disciplines for which each such consultant is qualified, as necessary to assist the COUNTY in performing projects (hereinafter referred to as "PROJECT(S)") proposed by the COUNTY; and

WHEREAS, said the CONSULTANT has been selected in accordance with the COUNTY's Ordinance Code Chapter 4.10 on the selection of architects, engineers, and other professionals, and in accordance with Chapter 10 of the California Department of Transportation's (CALTRANS) Local Assistance Procedures Manual (LAPM), to provide certain professional services necessary for the PROJECTS, as specified herein; and

WHEREAS, the individual listed below

Erin Haagenson, Principal Staff Analyst

2220 Tulare Street, 6th Floor, Fresno, CA 93721

559-600-4528

ehaagenson@fresnocountyca.gov

is designated as the CONTRACT ADMINISTRATOR for this Agreement on behalf of the COUNTY, and shall remain so unless the CONSULTANT is otherwise notified in writing by

1 the COUNTY's Director of Public Works and Planning or his/her designee(s) (hereinafter
2 referred to as the "DIRECTOR"); and

3 WHEREAS, the individual listed in Appendix A, as the firm's "Consultant Project
4 Manager" is designated as the CONSULTANT'S PROJECT MANAGER for this Agreement,
5 and shall remain so unless the CONSULTANT requests and the DIRECTOR approves, in
6 writing, a change of the CONSULTANT'S PROJECT MANAGER, which approval will not
7 be unreasonably withheld; and

8 NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions
9 herein contained, the parties hereto agree as follows:

10 **1. OBLIGATIONS OF THE CONSULTANT**

11 A. The COUNTY hereby contracts with the CONSULTANT as an independent
12 contractor to provide the professional services enumerated in "Consultant's Scope of
13 Services" attached as Appendix B.

14 B. The CONSULTANT'S services shall be performed as expeditiously as is
15 consistent with professional skill and the orderly progress of the work, based on schedules
16 for each specific PROJECT mutually agreed upon in advance by the CONTRACT
17 ADMINISTRATOR, and the CONSULTANT.

18 C. The CONSULTANT'S PROJECT team staff shall be as listed in Appendix C,
19 attached hereto and incorporated herein. Any substitutions of personnel must be approved
20 in advance by the CONTRACT ADMINISTRATOR, which approval shall not be
21 unreasonably withheld. The CONSULTANT shall notify the CONTRACT ADMINISTRATOR
22 of the names and classifications of employees assigned to each specific PROJECT, and
23 shall not reassign such employees to other projects of the CONSULTANT without
24 notification to and prior approval by the CONTRACT ADMINISTRATOR.

25 D. The CONSULTANT may retain, as subconsultants, specialists as the
26 CONSULTANT requires to assist in completing the work in accordance with Article 16
27 "Subconsultants" (and, if applicable to this Agreement, Article 23 "Disadvantaged Business
28 Enterprises").

1 E. Services provided by CONSULTANT on PROJECTS relating to the
2 construction or improvement of roads and bridges shall be done in accordance with
3 American Association of State Highway and Transportation Officials (AASHTO)
4 requirements for applicable structures.

5 F. All projects funded wholly or in part by CALTRANS must conform to all
6 requirements imposed by CALTRANS and the Federal Highway Administration (FHWA), as
7 specified in Section 11 of CALTRANS LAPM Volume 1.

8 G. The services that may be furnished by the CONSULTANT under this
9 Agreement are for all or a portion of the services the CONSULTANT is allowed to provide
10 within the applicable professional discipline limits, as defined in California State License
11 Law, for various PROJECTS on an as needed basis.

12 H. The CONSULTANT agrees to provide the professional services that are
13 necessary for each PROJECT when expressly authorized in writing by the CONTRACT
14 ADMINISTRATOR. Such work by the CONSULTANT shall not begin until the
15 CONSULTANT has received a written Notice to Proceed (NTP) or Task Order from the
16 CONTRACT ADMINISTRATOR authorizing the necessary service, agreed upon fee, and
17 scope of work.

18 I. The CONSULTANT shall submit proposals in response to requests issued by
19 the CONTRACT ADMINISTRATOR on a project-by-project basis. The CONSULTANT'S
20 proposal at a minimum shall include, but not be limited to, staff qualifications, proposed
21 method and schedule for completing the task(s), completed federal forms and a sealed cost
22 proposal. The CONSULTANT agrees that each professional or other individual performing
23 work on any such PROJECT(S) shall be adequately trained to perform the work and shall
24 possess the proper license, certification or registration as required by law or by accepted
25 standards of the applicable profession. The CONSULTANT agrees to provide the
26 professional services that are necessary to complete the requested tasks consistent with
27 the scope of its contracted discipline(s), as listed in Appendix B ("Scope"), when expressly
28 authorized in writing by the CONTRACT ADMINISTRATOR.

1 J. Submissions of reports, plans, specifications, and estimates will be submitted
2 in the formats, quantities, and delivery methods delineated in Appendix D "Deliverables"
3 hereto unless other formats, quantities, and/or delivery methods have been mutually
4 agreed upon, in writing, prior to the CONSULTANT's submittal. The CONSULTANT shall
5 verify compatible format and quantity prior to final delivery.

6 K. Assist the COUNTY, at the DIRECTOR's express, written authorization, with
7 any claim resolution process involving the construction contractor and the COUNTY as
8 specified hereunder, including serving as a witness in connection with any public hearings
9 or legal proceeding, and also including dispute resolutions required by law or hereunder.
10 The parties recognize that this clause is provided as a means of expediting resolution of
11 claims among the construction contractor, the COUNTY, and the CONSULTANT. However,
12 it is understood the construction contractor is not an intended third-party beneficiary of this
13 clause. Compensation for these services shall be computed and invoiced at the same
14 hourly rates listed in Appendix E hereto, including travel costs that are being paid for the
15 CONSULTANT's personnel services under this Agreement. Any assistance provided by
16 the CONSULTANT as described in this Article 1, Section K shall be subject to the
17 provisions of Article 5 hereinafter, and shall also be subject to the following:

18 1. The DIRECTOR may believe the CONSULTANT'S work under this
19 Agreement to have included negligent errors or omissions, or that the CONSULTANT may
20 otherwise have failed to comply with the provisions of this Agreement, either generally or in
21 connection with its duties as associated with a particular PROJECT; and that the cause(s)
22 for a claim by the construction contractor may be attributable, in whole or in part, to such
23 conduct on the part of the CONSULTANT. Upon notice by the DIRECTOR, the payments to
24 the CONSULTANT for such arguably deficient services shall be held in suspense by the
25 COUNTY until a final determination has been made, of the proportion that the
26 CONSULTANT'S fault bears to the fault of all other parties concerned.

27 2. Such amounts held in suspense shall not be paid to the
28 CONSULTANT, pending the final determination as to the CONSULTANT'S proportional

1 fault. However, the appropriate percentage of such amount held in suspense shall be paid
2 to the CONSULTANT, once a final determination has been made, and the CONSULTANT
3 thereafter submits a proper invoice to the COUNTY. Payment shall be issued in
4 accordance with the procedure outlined in Article 5, Section E, Paragraph 2.

5 L. The CONSULTANT'S personnel shall typically be assigned to and remain on
6 specific Department projects/deliverables until completion and acceptance of the
7 project/deliverables by the Department. Personnel assigned by the CONSULTANT shall
8 be available at the start of a Task Order and after acceptance of the project/deliverable by
9 the Department.

10 M. After the CONTRACT ADMINISTRATOR'S approval of the CONSULTANT'S
11 personnel proposal and finalization of a Task Order, the CONSULTANT may not add or
12 substitute personnel without the CONTRACT ADMINISTRATOR'S prior written approval.

13 2. OBLIGATIONS OF THE COUNTY

14 The COUNTY will:

15 A. Provide eligible consultants the opportunity to compete for Task Orders on a
16 project-by-project basis by providing a miniature Request for Proposal (mini-RFP), except
17 as specified under Section B. The CONSULTANT'S eligibility for project types, disciplines,
18 and services is listed in Appendix B.

19 B. The COUNTY reserves the right to suspend competition under this
20 AGREEMENT and engage the services of an eligible qualified consultant from the listing
21 attached as Appendix A, in the event that one or more of the following circumstances apply
22 to the needed work:

23 1. Service is available only from a single source
24 2. There is an emergency which will not permit the time necessary to
25 conduct competitive negotiations
26 3. After the mini-RFP is issued (as provided in the immediately preceding
27 Section A) competition is determined to be inadequate
28 4. Services of expert witnesses for litigation or special counsel to assist

the County.

C. Issue Task Orders on a project-by-project basis. Task Orders will at a minimum include scope of work, location, and schedule for the PROJECT.

D. Provide the CONSULTANT with a PROJECT Scope and Schedule, and compensate the CONSULTANT as provided in this Agreement.

E. Provide an individual PROJECT ADMINISTRATOR to serve as a representative of the COUNTY who will coordinate and communicate with the CONSULTANT on all PROJECT technical work, to the extent appropriate, in an effort to facilitate the CONSULTANT'S performance of its obligations in accordance with the provisions of this Agreement.

F. Provide basic plan sheet layouts as required.

G. Examine documents submitted to the COUNTY by the CONSULTANT and timely render decisions pertaining thereto.

H. Provide aerial photographs as required.

I. Provide copies of any available existing as-built plans and right-of-way drawings from the COUNTY'S files.

J. Provide list of property owners with addresses for notification of property owners upon the CONSULTANT'S request.

K. Provide preliminary engineering survey data on existing structures and topographic mapping in the formats, quantities, and delivery methods delineated in Appendix D to the CONSULTANT, if available.

L. Prepare all legal descriptions and drawings required for right-of-way acquisition and/or temporary construction permits.

M. Provide limited assistance to CONSULTANT, as may be appropriate under the circumstances, in connection with CONSULTANT'S processing of required permits.

N. Give reasonably prompt consideration to all matters submitted for approval by the CONSULTANT in an effort to assist the CONSULTANT in avoiding any substantial delays in the CONSULTANT'S program of work. An approval, authorization or request to

1 the CONSULTANT given by the COUNTY will be binding upon the COUNTY under the
2 terms of this Agreement only if it is made in writing and signed on behalf of the COUNTY by
3 CONTRACT ADMINISTRATOR.

4 *For a CONSULTANT that will not be offering Staff augmentation services (Appendix B
5 Scope lists Consultant eligibility to offer services).*

6 O. Not used.

7 *OR For a CONSULTANT that will be offering Staff augmentation services (Appendix B
8 Scope lists Consultant eligibility to offer services).*

9 O. Staff Augmentation

10 The COUNTY will:

11 a. Issue Task Orders on an assignment-by-assignment basis. Task Orders
12 will at a minimum include a description of the assignments to be performed and the
13 anticipated duration of the assignments.

14 b. Provide a work station and basic work tools and supplies such as
15 computers, printers, calculators, paper and various office supplies. Parking charges will not
16 be reimbursed by the COUNTY.

17 c. Compensate the CONSULTANT as provided in the AGREEMENT.

18 d. Provide, as to each PROJECT, designated COUNTY management staff,
19 including the member of COUNTY staff who will be the Engineer-in-Responsible Charge for
20 that PROJECT, who together shall be responsible to assign work and oversee the work of
CONSULTANT's staff on a day-to-day basis.

21 e. Provide an individual PROJECT ADMINISTRATOR to serve as a
22 representative of the COUNTY who will coordinate and communicate with the
23 CONSULTANT, to the extent appropriate, to facilitate the CONSULTANT'S performance of
24 its obligations in accordance with the provisions of the AGREEMENT.

25 f. Give reasonably prompt consideration to all matters submitted for
26 approval by the CONSULTANT in an effort to assist the CONSULTANT in avoiding any
27 substantial delays in the CONSULTANT'S program of work. An approval, authorization or
28 request to the CONSULTANT given by the COUNTY will be binding upon the COUNTY

1 under the terms of the AGREEMENT only if it is made in writing and signed on behalf of the
2 COUNTY by the CONTRACT ADMINISTRATOR.

3 3. TERM OF AGREEMENT

4 A. The term of this Agreement shall be for a period of five (5) years, commencing
5 upon execution by the COUNTY, through and including the fifth anniversary of the
6 execution date.

7 B. The CONSULTANT shall commence work promptly after receipt of a Notice to
8 Proceed or Task Order issued by the CONTRACT ADMINISTRATOR. The period of
9 performance for Task Orders shall be in accordance with dates specified in the Task Order.
10 No Task Order will be written which would extend the period of performance beyond the
11 expiration date of this Agreement, the maximum term of which shall not exceed five (5)
12 years.

13 4. TERMINATION

14 A. Non-Allocation of Funds / Funding Requirements

15 The terms and conditions of this Agreement, and the services to be provided
16 hereunder, are contingent on the approval of funds by the appropriating government
17 agency. Should sufficient funds not be allocated, the services provided may be modified, or
18 this Agreement terminated, at any time by giving the CONTRACTOR thirty (30) days
19 advance written notice. This Agreement may be terminated without cause at any time by
20 the COUNTY upon thirty (30) calendar days' written notice. If the COUNTY terminates this
21 Agreement, the CONSULTANT shall be compensated for services satisfactorily completed
22 to the date of termination based upon the compensation rates and subject to the maximum
23 amounts payable agreed to in Article 5, together with such additional services satisfactorily
24 performed after termination which are expressly authorized by the COUNTY to conclude
25 the work performed to date of termination.

26 B. Breach of Contract

27 The COUNTY may immediately suspend or terminate this Agreement in whole or in
28 part, where in the determination of the COUNTY there is:

- 1 1. An illegal or improper use of funds;
- 2 2. A failure to comply with any term of this Agreement;
- 3 3. A substantially incorrect or incomplete report submitted to the COUNTY;
- 4 4. Improperly performed service.

5 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY
6 of any breach of this Agreement or any default which may then exist on the part of the
7 CONSULTANT, nor shall any such payment impair or prejudice any remedy available to
8 the COUNTY with respect to the breach or default. The DIRECTOR shall have the right to
9 demand of the CONSULTANT the repayment to the COUNTY of any funds disbursed to
10 the CONSULTANT under this Agreement, which, in the sole judgment of the COUNTY
11 were not expended in accordance with the terms of this Agreement. The CONSULTANT
12 shall promptly refund any such funds upon demand. This Section survives the termination
13 of this Agreement.

14 C. Without Cause

15 Under circumstances other than those set forth above, this Agreement may be
16 terminated by COUNTY upon the giving of thirty (30) days advance written notice of an
17 intention to terminate to CONTRACTOR.

18 5. COMPENSATION, ALLOWABLE COSTS AND PAYMENTS

19 A. Maximum Cumulative Amount Available

20 The COUNTY has or will enter into up to fifty (50) separate agreements, including
21 this Agreement, for performance of the Scope of Services identified hereinabove in Article
22 1, Section A and more thoroughly in Appendix B attached hereto. The other Agreements
23 are to be entered into by the COUNTY with the other consultant firms listed, together with
24 the CONSULTANT, on the list of consultant firms attached hereto as Appendix A. The total
25 amount payable by the COUNTY for all the Agreements combined shall not exceed a
26 cumulative maximum total value of Twenty-two Million Two Hundred Thousand Dollars
27 (\$22,200,000), which "Not to Exceed Sum" hereinafter shall be referenced as the "NTE
28 Sum".

1 It is understood and agreed that there is no guarantee, either expressed or implied,
2 that all or any specific portion of this maximum NTE Sum will be authorized under the On-
3 Call Engineering Consultant Agreements through Task Orders. It is further understood and
4 agreed that there is no guarantee, either expressed or implied, that any Task Order will be
5 assigned to the CONSULTANT or that the CONSULTANT will receive any payment
6 whatsoever, under the terms of this Agreement. Each time a Task Order is awarded under
7 any of the Agreements, the COUNTY shall send written notification to the CONSULTANT
8 and each of the other consultants that entered into the Agreements. Each such notice shall
9 identify the cumulative total of funds allocated under all Task Orders issued hereunder as
10 of that date, and the remaining unencumbered amount of the NTE Sum. The
11 CONSULTANT acknowledges and agrees that the COUNTY shall not pay any amount
12 under this Agreement that would cause the NTE Sum to be exceeded, and the
13 CONSULTANT shall not enter into a Task Order that exceeds the remaining
14 unencumbered amount of the NTE Sum.

15 B. Consultant Fee

16 1. The approved CONSULTANT's Cost Proposal is attached hereto
17 as Appendix E and incorporated by this reference as though fully set forth herein. If there
18 is any conflict between the provisions set forth in the text of this Agreement and the
19 approved Cost Proposal (Appendix E), this Agreement shall take precedence.

20 2. The hourly and cost rates listed in Appendix E for services
21 rendered by the CONSULTANT and subconsultants shall remain in effect for the entire
22 duration of this Agreement unless adjusted in accordance with the provisions of
23 Paragraphs 3, 5, or 6 of this Article 5, Section B.

24 3. The hourly rates paid for services performed by the CONSULTANT
25 and by subconsultants of the CONSULTANT and the rates for expenses incidental to the
26 CONSULTANT'S and its subconsultants' performance of services may be adjusted no
27 more than once annually for inflation, in accordance with the following provisions: the
28 CONSULTANT may request new labor rates and new rates for expenses incidental to the

1 CONSULTANT'S and subconsultant's performance of services subject to written approval
2 of the CONTRACT ADMINISTRATOR in accordance with the provisions of this Article 5,
3 Section B. The CONSULTANT shall initiate the rate adjustment process by submitting to
4 the CONTRACT ADMINISTRATOR a proposed adjusted fee schedule. The proposed
5 adjusted fee schedule shall include proposed hourly rates for all categories of the
6 CONSULTANT'S and any subconsultants' wage classifications and proposed rates for
7 incidental expenses listed in Appendix E. The proposed adjusted fee schedule shall not
8 take effect unless approved in writing by the CONTRACT ADMINISTRATOR. The
9 CONSULTANT hereby acknowledges its understanding that approval by the CONTRACT
10 ADMINISTRATOR of any upward adjustment in the hourly and cost rates shall not provide
11 a basis for any increase in the NTE Sum as set forth in Article 5, Section A.

12 4. Expenses incidental to the CONSULTANT'S and any
13 subconsultant's performance of services under Article 5 of this Agreement shall be charged
14 at the rates listed in Appendix E, subject to any adjustments that may be approved in
15 accordance with Paragraphs 3, 5, or 6 of this Article 5, Section B. Unless incorporated in an
16 adjusted fee schedule approved by the CONTRACT ADMINISTRATOR in accordance with
17 Paragraphs 3, 5, or 6 of this Article 5, Section B, all other expenses incidental to the
18 CONSULTANT'S and any subconsultant's performance of the services under Article 1 of
19 this Agreement that are not specifically listed in Appendix E shall be borne by the
20 CONSULTANT.

21 5. In the event that, in accordance with Article 1, Section D, the
22 CONTRACT ADMINISTRATOR approves the CONSULTANT to retain additional
23 subconsultants not listed in Appendix H, hourly rates paid for services performed by such
24 additional subconsultants of the CONSULTANT and the rates for expenses incidental to
25 those additional subconsultants' performance of services may be adjusted no more than
26 once annually for inflation, in accordance with Article 5, Section B, Paragraph 3. The first
27 annual adjustment of hourly and incidental expense rates for such additional
28 subconsultants shall not be submitted for approval prior to one year after the CONTRACT

1 ADMINISTRATOR'S approval of the retention of such additional subconsultant(s) by the
2 CONSULTANT.

3 6. Notwithstanding any other provisions in this Agreement, the
4 CONTRACT ADMINISTRATOR may, at any time, authorize in writing the revision of the
5 CONSULTANT'S or subconsultant's list of rates for incidental expenses to include
6 additional categories of such expenses if, in the opinion of the CONTRACT
7 ADMINISTRATOR, such revision is necessary to facilitate the CONSULTANT'S
8 performance of the PROJECT(S).

9 7. Reimbursement for transportation and subsistence costs shall not
10 exceed the rates as specified in the approved Cost Proposal (Appendix E). The
11 CONSULTANT will be responsible for transportation and subsistence costs in excess of
12 State rates.

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

16 *For a CONSULTANT that will not be offering services pertaining to projects funded by
17 federal sources (Appendix B Scope lists Consultant eligibility to offer services).*

18 C. Not used

19 *OR For a CONSULTANT that will be offering services pertaining to projects funded by
20 federal sources (Appendix B Scope lists Consultant eligibility):*

21 C. Indirect Cost Rate

22 1. In accordance with Article 16, the Indirect Cost Rate (ICR) listed in the
23 CONSULTANT's Cost Proposal (Appendix E) shall match the ICR listed for the
24 CONSULTANT's ICR Forms and all subconsultant's ICR Forms, attached hereto Appendix
25 E and incorporated by reference.

26 The ICR Forms attached as Appendix F for CONSULTANT or subconsultant with an
27 approved ICR are:

1 a. Consultant Annual Certification of Indirect Costs and Financial
2 Management System (Exhibit 10-K),

3 b. the ICR Schedule with FAR References for Disallowed Costs
4 c. the Cognizant Approval Letter for the ICR FYE Proposed.

5 The ICR Forms attached as Appendix F for CONSULTANT or subconsultant without
6 an approved ICR is an approved California Safe Harbor Indirect Cost Rate Program
7 Consultant Certification of Eligibility of Contract Costs and Financial Management,
8 otherwise known as a Safe Harbor Rate (SHR) Request Form.

9 2. All parties agree to fix the ICR for the term of the contract.

10 **D. Retention**

11 In addition to any amounts withheld under Article 3, the CONSULTANT agrees that
12 the COUNTY, at the discretion of the CONTRACT ADMINISTRATOR, may withhold a five
13 percent (5%) retention from the earned compensation of the CONSULTANT. If the
14 CONTRACT ADMINISTRATOR determines that retention will not be withheld for a
15 PROJECT, the CONTRACT ADMINISTRATOR will so state in writing prior to
16 commencement of the PROJECT by the CONSULTANT. The CONTRACT
17 ADMINISTRATOR will identify in writing prior to commencement of the PROJECT the
18 PROJECT-specific prerequisites (such as successful completion of a PROJECT phase, as
19 an example) for the release of retentions.

20 **E. Payments**

21 1. Progress payments will be made by the COUNTY upon receipt of the
22 CONSULTANT'S monthly invoices and approval by the CONTRACT ADMINISTRATOR
23 thereof based on the CONTRACT ADMINISTRATOR'S evaluation of the completion of the
24 respective components of the assigned PROJECT. Invoices shall clearly identify the
25 PROJECT by Name(s), the Phase and Task(s) comprising the work that is the subject of
26 the invoice, the Notice to Proceed or Task Order number, and the date(s) on which the
27 work was performed. Invoices shall be submitted together with the documentation
28

1 identified below in Paragraph 5 of this Article 5, Section E. Invoices shall be forwarded
2 electronically to: PWPBusinessOffice@fresnocountyca.gov

3 2. Upon receipt of a proper invoice, the CONTRACT ADMINISTRATOR
4 will take a maximum of ten (10) working days to review, approve, and submit it to the
5 COUNTY Auditor-Controller/Treasurer-Tax Collector. Unsatisfactory or inaccurate invoices
6 will be returned to the CONSULTANT for correction and resubmittal. Payment, less
7 retention, if applicable, will be issued to the CONSULTANT within forty five (45) calendar
8 days of the date the Auditor-Controller/Treasurer-Tax Collector receives the approved
9 invoice.

10 3. The COUNTY is entitled to withhold a five percent (5%) retention
11 from the CONSULTANT'S earned compensation in accordance with the provisions of
12 Article 5, Section D of this Agreement.

13 4. An unresolved dispute over a possible error or omission may cause
14 payment of the CONSULTANT fees in the disputed amount to be withheld by the COUNTY.

15 5. Concurrently with the invoices, the CONSULTANT shall certify
16 (through copies of issued checks, receipts, or other COUNTY pre-approved
17 documentation) that complete payment, less a five percent (5%) retention if applicable, has
18 been made to all subconsultants as provided herein for all previous invoices paid by the
19 COUNTY. However, the parties do not intend that the foregoing creates, as to any
20 subconsultants or subcontractors, any purported third-party beneficiary status or any third-
21 party beneficiary rights whatsoever, and the parties do hereby expressly disclaim any such
22 status or rights.

23 6. Final invoices, and separate invoices for retentions, shall be
24 submitted to CONTRACT ADMINISTRATOR no later than thirty (30) days after the phase
25 is completed. Payment for retentions, if any, shall not be made until all services for the
26 phase are completed.

7. In the event the DIRECTOR reduces the scope of the CONSULTANT'S work under this Agreement for a specific PROJECT (or discontinues a specific PROJECT), whether due to a deficiency in the appropriation of anticipated funding or otherwise, the CONSULTANT will be compensated on a pro rata basis for actual work completed and accepted by the DIRECTOR in accordance with the terms of this Agreement.

8. Credits due CONSULTANT that include any equipment purchased under the provisions of Article 26 Equipment Purchase, must be reimbursed by CONSULTANT prior to the expiration or termination of this Agreement.

F. Notice to Proceed / Task Orders / Project Cost Proposal

1. Upon the acceptance of a project proposal submitted by the CONSULTANT in accordance with the provisions of Article 1, Section I, and if an agreement has been reached on the negotiable items and total cost in connection therewith, then a specific PROJECT will be assigned to the CONSULTANT through issuance by the CONTRACT ADMINISTRATOR of one or more Task Orders or Notices to Proceed (NTP). 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 approved Cost Proposal (Appendix E to this Agreement).

2. A Project Cost Proposal is of no force or effect and no expenditures are authorized on a PROJECT and work shall not commence until a Notice to Proceed for that PROJECT has been issued by the COUNTY.

3. 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.

4. When milestone or phase cost estimates are included in the Project Cost Proposal and/or Task Order, the CONSULTANT shall obtain prior written approval for

1 a revised Project Cost Proposal from the CONTRACT ADMINISTRATOR before exceeding
2 such estimate.

3 5. The CONSULTANT shall not commence performance of any work or
4 services hereunder until this Agreement has been formally approved by the COUNTY and
5 Notice to Proceed on a specific PROJECT has been issued by the COUNTY's CONTRACT
6 ADMINISTRATOR. No payment will be made prior to approval or for any work performed
7 by the CONSULTANT prior to the COUNTY'S formal approval of this Agreement.

8 6. The period of performance for each Notice to Proceed shall be in
9 accordance with dates specified in the Notice to Proceed. Consistent with the provisions of
10 Article 3, Section B, no Notice to Proceed will be issued that would extend the
11 CONSULTANT'S period of performance beyond the expiration date of this Agreement.

12 7. Notices to Proceed may not be used to amend any provision of this
13 Agreement or to expand the scope of the CONSULTANT'S work as authorized under the
14 provisions of this Agreement.

15 6. INDEPENDENT CONTRACTOR

16 For a CONSULTANT that **will not** be offering Staff augmentation services (Appendix
17 B Scope lists Consultant eligibility to offer services).

18 A. In performance of the work, duties and obligations assumed by the CONSULTANT
19 under this Agreement, it is mutually understood and agreed that the CONSULTANT, including
20 any and all of the CONSULTANT'S officers, agents, and employees will at all times be acting
21 and performing as an independent contractor, and shall act in an independent capacity and
22 not as an officer, agent, servant, employee, joint venturer, partner, or associate of the
23 COUNTY. Furthermore, the COUNTY shall have no right to control or supervise or direct the
24 manner or method by which the CONSULTANT shall perform its work and function. However,
25 the COUNTY shall retain the right to administer this Agreement so as to verify that the
26 CONSULTANT is performing its obligations in accordance with the terms and conditions
27 thereof.

1 *OR For a CONSULTANT that will be offering Staff augmentation services (Appendix B*
2 *Scope lists Consultant eligibility to offer services).*

3 A. In performance of the work, duties and obligations assumed by the
4 CONSULTANT under the AGREEMENT, it is mutually understood and agreed that the
5 CONSULTANT, including any and all of the CONSULTANT'S officers, agents, and employees
6 will at all times be acting and performing as an independent contractor, and shall act in an
7 independent capacity and not as an officer, agent, servant, employee, joint venturer, partner,
8 or associate of the COUNTY. Notwithstanding the foregoing, the County will have oversight
9 responsibility over the work performed on every PROJECT pursuant hereto, and one of the
10 COUNTY's own licensed engineers shall be the Engineer-in-Responsible Charge, and
11 accordingly will approve, sign, and stamp the final plans for every PROJECT on which any of
12 CONSULTANT's employees performs any work hereunder. Furthermore, COUNTY shall
13 retain the right to administer the AGREEMENT in order to verify that the CONSULTANT is
14 performing its obligations in accordance with the terms and conditions hereof.

15 B. The CONSULTANT and the COUNTY shall comply with all applicable provisions of
16 law and the rules and regulations, if any, of governmental authorities having jurisdiction over
17 matters the subject thereof.

18 C. Because of its status as an independent contractor, the CONSULTANT shall have
19 absolutely no right to employment rights and benefits available to COUNTY employees. The
20 CONSULTANT shall be solely liable and responsible for providing to, or on behalf of, its
21 employees all legally-required employee benefits. In addition, the CONSULTANT shall be
22 solely responsible and save the COUNTY harmless from all matters relating to payment of the
23 CONSULTANT'S employees, including compliance with Social Security withholding and all
24 other regulations governing such matters. It is acknowledged that during the term of this
25 Agreement, the CONSULTANT may be providing services to others unrelated to the
26 COUNTY or to this Agreement.

27 7. MODIFICATION / CHANGE IN TERMS

28 A. This Agreement may be amended or modified only by mutual written agreement

1 of both parties. Except to the limited extent allowed under Article 3, Section A, and Article
2 5, Section B, and Article 7, Section C, and Article 16, Section A, any such written
3 amendment to this Agreement may be approved on the COUNTY's behalf only by its Board
4 of Supervisors.

5 B. The CONSULTANT shall only commence work covered by an amendment after
6 the amendment has been fully executed and written notification to proceed has been
7 issued by the CONTRACT ADMINISTRATOR.

8 C. There shall be no change in CONSULTANT's Project Manager or members of the
9 project team, as listed in Appendix A and the approved Cost Proposal (Appendix E, which
10 is incorporated as a part of this Agreement as provided in Article 5, Section 1), without prior
11 written approval by the COUNTY's CONTRACT ADMINISTRATOR. Any substitutions of
12 personnel must be approved in advance by the CONTRACT ADMINISTRATOR, which
13 approval shall not be unreasonably withheld. The CONSULTANT shall notify the
14 CONTRACT ADMINISTRATOR of the names and classifications of employees assigned to
15 each specific PROJECT and shall not reassign such employees to other projects of the
16 CONSULTANT without notification to and prior approval by the CONTRACT
17 ADMINISTRATOR.

18 8. NON-ASSIGNMENT

19 Neither party shall assign, transfer or sub-contract this Agreement or any of its
20 respective rights or duties under this Agreement hereunder, without the prior written
21 consent of the other party.

22 9. HOLD HARMLESS

23 A. The CONSULTANT shall defend, hold harmless and indemnify the COUNTY,
24 its officers, agents, and employees, against the payment of any and all costs and expenses
25 (including reasonable attorney fees and court costs), damages, claims, suits, losses, and
26 liability for bodily and personal injury to or death of any person or for loss of any property,
27 economic loss or otherwise resulting from or arising out of any negligent or wrongful acts,
28 errors or omissions of the CONSULTANT, its officers, agents, and employees, in

1 performing or failing to perform any work, services, or functions under this Agreement.
2 Provided, however, and notwithstanding the immediately preceding sentence, with respect
3 to any PROJECT on which the CONSULTANT has provided design professional services
4 as defined by Civil Code Section 2782.8(c), the CONSULTANT has no obligation to pay for
5 any defense related cost prior to a final determination of its liability, based upon the
6 percentage of comparative fault (if any) finally determined to be attributable to the
7 CONSULTANT'S negligence, recklessness or willful misconduct. Following any such
8 determination, the CONSULTANT shall be responsible to pay to the COUNTY the dollar
9 amount of all such defense costs incurred by the COUNTY that is commensurate with the
10 finally determined percentage of the CONSULTANT'S liability, based upon the final
11 determination of the CONSULTANT'S comparative fault. The provisions of this Article 9,
12 Section A shall survive termination of this Agreement.

13 B. The COUNTY and the CONSULTANT hereby declare their mutual intent to
14 cooperate in the defense of any claim, suit, or other action alleging liability, arising from the
15 negligent performance or failure to perform of any COUNTY construction contractor (or its
16 subcontractor(s)) involved in the construction of any PROJECT(S). Such cooperation may
17 include an agreement to prepare and present a cooperative defense after consultation with
18 the CONSULTANT'S professional liability insurance carrier.

19 10. LIABILITY INSURANCE

20 Without limiting the COUNTY'S right to obtain indemnification from the
21 CONSULTANT or any third parties, the CONSULTANT, at its sole expense, shall maintain
22 in full force and effect, the following insurance policies prior to commencement of any work
23 for the COUNTY and, thereafter, throughout the entire term of this Agreement (with the
24 exception of Professional Liability Insurance, which the CONSULTANT shall maintain in full
25 force and effect for the additional period of time required by Article 20, Section A,
26 Paragraph 4).

27 A. Commercial General Liability

28 Commercial General Liability Insurance with limits of not less than Two Million

1 Dollars (\$2,000,000.00) per occurrence and an annual aggregate of not less than Four
2 Million Dollars (\$4,000,000.00). This policy shall be issued on a per occurrence basis. The
3 COUNTY may require specific coverages including completed operations, products liability,
4 contractual liability, Explosion-Collapse-Underground, fire legal liability or any other liability
5 insurance deemed necessary because of the nature of this Agreement.

6 B. Automobile Liability

7 Comprehensive Automobile Liability Insurance with limits of not less than One
8 Million Dollars (\$1,000,000.00) per accident for bodily injury and for property damages.
9 Coverage should include auto used in connection with this Agreement.

10 C. Professional Liability Insurance:

11 1. If the CONSULTANT employs licensed professional staff in providing
12 services, Professional Liability Insurance with limits of One Million Dollars (\$1,000,000.00)
13 per claim, Three Million Dollars (\$3,000,000.00) annual aggregate.

14 2. The Professional Liability Insurance shall be kept in full force and
15 effect for a period of five (5) years from the date of substantial completion of the
16 CONSULTANT'S work as determined by the COUNTY.

17 D. Worker's Compensation

18 A policy of Worker's Compensation insurance as may be required by the California
19 Labor Code.

20 E. Additional Requirements Relating to Insurance

21 The CONSULTANT shall obtain endorsements to the Commercial General Liability
22 insurance naming the County of Fresno, its officers, agents, and employees, individually and
23 collectively, as additional insured, but only insofar as the operations under this Agreement
24 are concerned. Such coverage for additional insured shall apply as primary insurance and
25 any other insurance, or self-insurance, maintained by the COUNTY, its officers, agents, and
26 employees shall be excess only and not contributing with insurance provided under the
27 CONSULTANT's policies required herein. This insurance shall not be cancelled or changed
28

1 without a minimum of thirty (30) days advance written notice given to the COUNTY.

2 The CONSULTANT hereby waives its right to recover from the COUNTY, its officers,
3 agents, and employees any amounts paid by the policy of worker's compensation insurance
4 required by this Agreement. The CONSULTANT is solely responsible to obtain any
5 endorsement to such policy that may be necessary to accomplish such waiver of subrogation,
6 but the CONSULTANT's waiver of subrogation under this paragraph is effective whether or
7 not the CONSULTANT obtains such an endorsement.

8 Prior to commencing any such work under this Agreement, the CONSULTANT shall
9 provide certificates of insurance and endorsement as stated above for all of the foregoing
10 policies, as required herein, to the County of Fresno, Erin Haagenson, Principal Staff Analyst,
11 2220 Tulare St., Sixth Floor, Fresno, CA 93721, stating that such insurance coverages have
12 been obtained and are in full force; that the County of Fresno, its officers, agents and
13 employees will not be responsible for any premiums on the policies; that for such worker's
14 compensation insurance the CONSULTANT has waived its right to recover from the
15 COUNTY, its officers, agents, and employees any amounts paid under the insurance policy
16 and that waiver does not invalidate the insurance policy; that such Commercial General
17 Liability insurance names the County of Fresno, its officers, agents and employees,
18 individually and collectively, as additional insured, but only insofar as the operations under
19 this Agreement are concerned; that such coverage for additional insured shall apply as
20 primary insurance and any other insurance, or self-insurance, maintained by the COUNTY,
21 its officers, agents and employees, shall be excess only and not contributing with insurance
22 provided under the CONSULTANT's policies herein; and that this insurance shall not be
23 cancelled or changed without a minimum of thirty (30) days advance, written notice given to
24 the COUNTY.

25 All policies shall be issued by admitted insurers licensed to do business in the State
26 of California, and such insurance shall be purchased from companies possessing a current
27 A.M. Best, Inc. rating of A FSC VII or better.

28 The CONSULTANT agrees that the bodily injury liability insurance herein provided

1 for, shall be in effect at all times during the term of this Agreement. In the event said
2 insurance coverage expires at any time or times during the term of this Agreement,
3 CONSULTANT agrees to provide at least thirty (30) calendar days prior notice to said
4 expiration date; and a new Certificate of Insurance evidencing insurance coverage as
5 provided for herein, for not less than either the remainder of the term of the Agreement, or
6 for a period of not less than one (1) year. New Certificates of Insurance are subject to the
7 approval of COUNTY.

8 In the event the CONSULTANT fails to keep in effect at all times the insurance
9 coverages as required by this Article 10, the COUNTY may, in addition to any other
10 remedies it may have, suspend or terminate this Agreement upon occurrence of such
11 failure, or may purchase such insurance coverage and charge the cost of the coverage to
12 the CONSULTANT. The COUNTY may offset such charges against any amounts owed by
13 the COUNTY to the CONSULTANT under this Agreement.

14 **11. AUDITS / RETENTION OF RECORD**

15 A. The CONSULTANT shall at any time during business hours, and as often as the
16 COUNTY may deem necessary, make available to the COUNTY for examination all of its
17 records and data with respect to the matters covered by this Agreement. The
18 CONSULTANT shall, upon request by the COUNTY, permit the COUNTY to audit and
19 inspect all of such records and data, including but not limited to, the costs of administering
20 this Agreement, necessary to ensure the CONSULTANT'S compliance with the terms of
21 this Agreement (and compliance with Public Contract Code 10115, et seq. and Title 21,
22 California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable).

23 B. For the purpose of determining compliance with Gov. Code § 8546.7, the
24 CONSULTANT, its subconsultants, and COUNTY shall maintain all books, documents,
25 papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and
26 other evidence pertaining to the performance of the Agreement including, but not limited to,
27 the costs of administering the Agreement. All parties, including the CONSULTANT's
28 Independent CPA, shall make such workpapers and materials available at their respective

1 offices at all reasonable times during the Agreement period and for three (3) years from the
2 date of final payment under the Agreement. The COUNTY, Caltrans Auditor, FHWA, or any
3 duly authorized representative of the Federal government having jurisdiction under Federal
4 laws or regulations (including without limitation when such jurisdiction is based upon
5 Federal funding of the PROJECT in whole or in part) shall have access to any books,
6 records, and documents of the CONSULTANT, its subconsultants, and the
7 CONSULTANT's Independent CPA, that are pertinent to the Agreement for audits,
8 examinations, workpaper review, excerpts, and transactions, and copies thereof shall be
9 furnished if requested without limitation. It shall be the responsibility of the CONSULTANT
10 to ensure that all subcontracts in excess of \$25,000 shall contain this provision.

11 C. This Article 11 survives the termination of this Agreement.

12 **12. NOTICES**

13 The delivery of all notices hereunder and communications regarding interpretation of
14 the terms of this Agreement and any proposed changes thereto, shall be accomplished by
15 sending an e-mail, addressed to the CONTRACT ADMINISTRATOR and the
16 CONSULTANT'S PROJECT MANAGER as identified on Pages 3 and 4 of this Agreement.
17 For all claims arising out of or related to this Agreement, nothing in this section establishes,
18 waives, or modifies any claims presentation requirements or procedures provided by law,
19 including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the
20 Government Code, beginning with section 810).

21 **13. GOVERNING LAW**

22 Venue for any action arising out of or related to this Agreement shall only be in
23 Fresno County, California.

24 The rights and obligations of the parties and all interpretation and performance of
25 this Agreement shall be governed in all respects by the laws of the State of California.

26 **14. DISCLOSURE OF SELF-DEALING TRANSACTIONS**

27 This provision is only applicable if the CONSULTANT is operating as a corporation
28 (a for-profit or non-profit corporation) or if during the term of this Agreement, the

1 CONSULTANT changes its status to operate as a corporation. Members of the
2 CONSULTANT'S Board of Directors shall disclose any self-dealing transactions that they
3 are a party to while the CONSULTANT is providing goods or performing services under this
4 Agreement. A self-dealing transaction shall mean a transaction to which the CONSULTANT
5 is a party and in which one or more of its directors has a material financial interest.
6 Members of the Board of Directors shall disclose any self-dealing transactions that they are
7 a party to by completing and signing a Self-Dealing Transaction Disclosure Form, attached
8 hereto as Appendix G and incorporated herein by reference, and submitting it to the
9 COUNTY prior to commencing with the self-dealing transaction or immediately thereafter.

10 **15. ELECTRONIC SIGNATURE**

11 The parties agree that this Agreement may be executed by electronic signature as
12 provided in this section.

13 A. An "electronic signature" means any symbol or process intended by an
14 individual signing this Agreement to represent their signature, including but not limited to:
15 (1) a digital signature; (2) a faxed version of an original handwritten signature; or (3) an
16 electronically scanned and transmitted (for example by PDF document) version of an
17 original handwritten signature.

18 B. Each electronic signature affixed or attached to this Agreement: (1) is
19 deemed equivalent to a valid original handwritten signature of the person signing this
20 Agreement for all purposes, including but not limited to evidentiary proof in any
21 administrative or judicial proceeding; and (2) has the same force and effect as the valid
22 original handwritten signature of that person.

23 C. The provisions of this section satisfy the requirements of Civil Code section
24 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
25 Part 2, Title 2.5, beginning with section 1633.1).

26 D. Each party using a digital signature represents that it has undertaken and
27 satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs
28 (1) through (5), and agrees that each other party may rely upon that representation.

1 E. This Agreement is not conditioned upon the parties conducting the
2 transactions under it by electronic means and either party may sign this Agreement with an
3 original handwritten signature.

4 16. SUBCONSULTANTS

5 A. The CONSULTANT may retain, as subconsultants, specialists in such
6 engineering disciplines (including, but not limited to, structural, mechanical, transportation,
7 environmental, water resources, electrical, surveying and geotechnical) as the
8 CONSULTANT requires to assist in completing the work. The subconsultants listed in
9 Appendix H, attached hereto and incorporated herein, shall be considered as approved by
10 the CONTRACT ADMINISTRATOR. Any other subconsultants proposed for use by the
11 CONSULTANT shall be approved in writing by the CONTRACT ADMINISTRATOR before
12 they are retained by the CONSULTANT, which approval shall not be unreasonably
13 withheld.

14 B. Should the CONSULTANT retain any subconsultants, the maximum amount of
15 compensation to be paid to the CONSULTANT under Article 5 shall not be increased. Any
16 additional compensation to be paid to the CONSULTANT for such subconsultants' work
17 shall be limited to administrative time as defined in the fee proposal. Additional fees other
18 than those defined in the fee proposal shall not be reimbursed.

19 C. CONSULTANT shall be as fully responsible to the COUNTY for the negligent
20 acts and omissions of its contractors and subcontractors or subconsultants, and of persons
21 either directly or indirectly employed by them, in the same manner as persons directly
22 employed by CONSULTANT.

23 D. Nothing contained in this Agreement shall create any contractual relationship
24 between the COUNTY and any of the CONSULTANT'S subconsultants, and no
25 subconsultant agreement shall relieve the CONSULTANT of any of its responsibilities and
26 obligations hereunder. The CONSULTANT agrees to be as fully responsible to the
27 COUNTY for the acts and omissions of its subconsultants and of persons either directly or
28 indirectly employed by any of them as it is for the acts and omissions of persons directly

1 employed by the CONSULTANT. The CONSULTANT'S obligation to pay its
2 subconsultants is a separate and independent obligation that is entirely unrelated to the
3 COUNTY's obligation to make payments to the CONSULTANT.

4 E. The CONSULTANT shall perform the work contemplated with resources
5 available within its own organization; and no portion of the work pertinent to this contract
6 shall be subcontracted without prior written authorization by the CONTRACT
7 ADMINISTRATOR, excepting only those portions of the work and the responsible
8 subconsultants that are expressly identified in Appendix H.

9 F. Any subcontract in excess of \$25,000 entered into as a result of this
10 Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to
11 subcontractors.

12 G. The CONSULTANT shall pay its subconsultants within fifteen (15) calendar
13 days from receipt of each progress payment made to the CONSULTANT by the COUNTY.

14 H. Any substitution of subconsultant(s) must be approved in writing by the
15 CONTRACT ADMINISTRATOR in advance of assigning work to a substitute
16 Subconsultant.

17 I. Prompt Progress Payment

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

28 In any action for the collection of funds wrongfully withheld, the prevailing party shall

1 be entitled to his or her attorney's fees and costs. The sanctions authorized under this
2 requirement shall be separate from, and in addition to, all other remedies, either civil,
3 administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

4 J. Prompt Payment of Withheld Funds to Subconsultants

5 The COUNTY may hold retainage from the CONSULTANT and shall make prompt
6 and regular incremental acceptances of portions, as determined by the COUNTY, of the
7 contract work, and pay retainage to the CONSULTANT based on these acceptances. The
8 COUNTY shall designate one of the methods below in the contract to ensure prompt and
9 full payment of any retainage kept by the CONSULTANT or subconsultant to a
10 subconsultant.

11 1. If the COUNTY has elected to hold retainage for a project under Article 5,
12 Section D, the COUNTY shall hold retainage from the CONSULTANT and shall make
13 prompt and regular incremental acceptances of portions, as determined by the COUNTY of
14 the contract work and pay retainage to the CONSULTANT based on these acceptances.
15 The CONSULTANT or subconsultant shall return all monies withheld in retention from all
16 subconsultants within 15 days after receiving payment for work satisfactorily completed and
17 accepted including incremental acceptances of portions of the contract work by the
18 COUNTY. Any delay or postponement of payment may take place only for good cause and
19 with the COUNTY's prior written approval. Any violation of these provisions shall subject
20 the violating CONSULTANT or subconsultant to the penalties, sanctions, and other
21 remedies specified in Section 3321 of the California Civil Code. This requirement shall not
22 be construed to limit or impair any contractual, administrative or judicial remedies otherwise
23 available to the CONSULTANT or subconsultant in the event of a dispute involving late
24 payment or nonpayment by the CONSULTANT; deficient subconsultant performance
25 and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE
26 subconsultants.

27 2. If the COUNTY has elected not to hold retainage under Article 5, Section
28 D, no retainage will be held by the COUNTY from progress payments due to

1 CONSULTANT; and in such case, the CONSULTANT and its subconsultants are prohibited
2 from holding retainage from their subconsultants. Any delay or postponement of payment
3 may take place only for good cause and with the COUNTY'S prior written approval. Any
4 violation of these provisions shall subject the violating CONSULTANT or subconsultant to
5 the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil
6 Code. This requirement shall not be construed to limit or impair any contractual,
7 administrative or judicial remedies, otherwise available to the CONSULTANT or
8 subconsultant in the event of a dispute involving late payment or nonpayment by the
9 CONSULTANT, or deficient performance and/or noncompliance by a subconsultant. This
10 clause applies to both DBE and non-DBE subconsultants.

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

17 **17. CONFLICT OF INTEREST**

18 A. The CONSULTANT shall comply with the provisions of the Fresno County
19 Department of Public Works and Planning Conflict of Interest Code, attached hereto as
20 Appendix I and incorporated herein by this reference . Such compliance shall include the
21 filing of annual statements pursuant to the regulations of the State Fair Political Practices
22 Commission including, but not limited to, portions of Form 700.

23 B. During the term of this Agreement, the CONSULTANT shall disclose any
24 financial, business, or other relationship with the COUNTY that may have an impact upon
25 the outcome of this contract, or any ensuing COUNTY construction project. The
26 CONSULTANT shall also list current clients who may have a financial interest in the
27 outcome of this contract, or any ensuing COUNTY construction project, which will follow.

28 C. The CONSULTANT certifies that it has disclosed to the COUNTY any actual,

1 apparent, or potential conflicts of interest that may exist relative to the services to be
2 provided pursuant to this AGREEMENT. The CONSULTANT agrees to advise the
3 COUNTY of any actual, apparent or potential conflicts of interest that may develop
4 subsequent to the date of execution of this AGREEMENT. The CONSULTANT further
5 agrees to complete any statements of economic interest if required by either COUNTY
6 ordinance or State law.

7 D. The CONSULTANT hereby certifies that it does not now have nor shall it acquire
8 any financial or business interest that would conflict with the performance of services under
9 this AGREEMENT.

10 E. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant
11 and any firm affiliated with the CONSULTANT or subconsultant that bids on any
12 construction contract or on any Agreement to provide construction inspection for any
13 construction project resulting from this AGREEMENT, has established necessary controls
14 to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to
15 the control of the same persons, through joint ownership or otherwise.

16 F. The CONSULTANT and affiliated subconsultants shall not submit bids, or sub-
17 bids, for the contract construction phase of the PROJECT(S) assigned to the
18 CONSULTANT. The CONSULTANT and its subconsultants, and all other service providers,
19 shall not provide any PROJECT-related services for, or receive any PROJECT-related
20 compensation from any construction contractor, subcontractor or service provider awarded
21 a construction contract (hereinafter referred to as "contractor") for all or any portion of the
22 PROJECT(S) for which the CONSULTANT provides services hereunder. The
23 CONSULTANT and its subconsultants, and all other service providers, may provide
24 services for, and receive compensation from a contractor who has been awarded a
25 construction contract for all or any portion of the PROJECT(S), provided that any such
26 services which are rendered, and any compensation which is received therefor, relates to
27 work outside the scope of the AGREEMENT and does not pose a conflict of interest.

28 G. Except for subconsultants or subcontractors whose services are limited to

1 providing surveying or materials testing information, no subcontractor who has provided
2 design services in connection with this contract shall be eligible to bid on any construction
3 contract, or on any contract to provide construction inspection for any construction project
4 resulting from this contract; provided, however, that this shall not be construed as
5 disallowing subcontractors who have provided design services for the PROJECT from
6 performing, pursuant to this Agreement or other agreement with the COUNTY, construction
7 inspection services on behalf of the COUNTY for the PROJECT.

8 **18. ERRORS OR OMISSIONS CLAIMS AND DISPUTES**

9 A. Definitions:

10 1. A "Consultant" is a duly licensed Architect or Engineer, or other provider of
11 professional services, acting as a business entity (owner, partnership, corporation, joint
12 venture or other business association) in accordance with the terms of an agreement with
13 the COUNTY.

14 2. A "Claim" is a demand or assertion by one of the parties seeking, as a
15 matter of right, adjustment or interpretation of contract terms, payment of money, extension
16 of time, change orders, or other relief with respect to the terms of the contract. The term
17 "Claim" also includes other disputes and matters in question between the COUNTY and the
18 CONSULTANT arising out of or relating to the contract. Claims must be made by written
19 notice. The provisions of Government Code section 901, et seq., shall apply to every claim
20 made to the COUNTY. The responsibility to substantiate claims shall rest with the party
21 making the claim. The term "Claim" also includes any allegation of an error or omission by
22 the CONSULTANT.

23 B. In the spirit of cooperation between the COUNTY and the CONSULTANT, the
24 following procedures are established in the event of any claim or dispute alleging a
25 negligent error, act, or omission, of the CONSULTANT.

26 1. Claims, disputes or other matters in question between the parties, arising
27 out of or relating to this Agreement, shall not be subject to arbitration, but shall be subject
28 to the following procedures.

1 2. The COUNTY and the CONSULTANT shall meet and confer and attempt
2 to reach agreement on any dispute, including what damages have occurred, the measure
3 of damages and what proportion of damages, if any, shall be paid by either party. The
4 parties agree to consult and consider the use of mediation or other form of dispute
5 resolution prior to resorting to litigation.

6 3. If the COUNTY and the CONSULTANT cannot reach agreement under
7 Article 18, Section B, Paragraph 2, the disputed issues may, upon concurrence by all
8 parties, be submitted to a panel of three (3) for a recommended resolution. The
9 CONSULTANT and the COUNTY shall each select one (1) member of the panel, and the
10 third member shall be selected by the other two panel members. The discovery rights
11 provided by California Code of Civil Procedure for civil proceedings shall be available and
12 enforceable to resolve the disputed issues. Either party requesting this dispute resolution
13 process shall, when invoking the rights to this panel, give to the other party a notice
14 describing the claims, disputes and other matters in question. Prior to twenty (20) working
15 days before the initial meeting of the panel, both parties shall submit all documents such
16 party intends to rely upon to resolve such dispute. If it is determined by the panel that any
17 party has relied on such documentation but has failed to previously submit such
18 documentation on a timely basis to the other party, the other party shall be entitled to a 20-
19 working-day continuance of such initial meeting of the panel. The decision by the panel is
20 not a condition precedent to arbitration, mediation or litigation.

21 4. Upon receipt of the panel's recommended resolution of the disputed
22 issue(s), the COUNTY and the CONSULTANT shall again meet and confer and attempt to
23 reach agreement. If the parties still are unable to reach agreement, each party shall have
24 recourse to all appropriate legal and equitable remedies.

25 C. The procedures to be followed in the resolution of claims and disputes may be
26 modified any time by mutual agreement of the parties hereto.

27 D. The CONSULTANT shall continue to perform its obligations under this
28 Agreement pending resolution of any dispute, and the COUNTY shall continue to make

1 payments of all undisputed amounts due under this Agreement.

2 E. When a claim by either party has been made alleging the CONSULTANT'S
3 negligent error, act, or omission, the COUNTY and the CONSULTANT shall meet and
4 confer within twenty-one (21) working days after the written notice of the claim has been
5 provided.

6 **19. OWNERSHIP OF DATA**

7 A. All documents, including preliminary documents, calculations, and survey data,
8 required in performing services under this Agreement shall be submitted to, and shall
9 remain at all times the property of the COUNTY regardless of whether they are in the
10 possession of the CONSULTANT or any other person, firm, corporation or agency.

11 B. The CONSULTANT understands and agrees the COUNTY shall retain full
12 ownership rights of the drawings and work product of the CONSULTANT for the PROJECT,
13 to the fullest extent permitted by law. In this regard, the CONSULTANT acknowledges and
14 agrees the CONSULTANT'S services are on behalf of the COUNTY and are "works made
15 for hire," as that term is defined in copyright law, by the COUNTY; that the drawings and
16 work product to be prepared by the CONSULTANT are for the sole and exclusive use of
17 the COUNTY, and that the COUNTY shall be the sole owner of all patents, copyrights,
18 trademarks, trade secrets and other rights and contractual interests in connection therewith
19 which are developed and compensated solely under this Agreement; that all the rights, title
20 and interest in and to the drawings and work product will be transferred to the COUNTY by
21 the CONSULTANT to the extent the CONSULTANT has an interest in and authority to
22 convey such rights; and the CONSULTANT will assist the COUNTY to obtain and enforce
23 patents, copyrights, trademarks, trade secrets, and other rights and contractual interests
24 relating to said drawings and work product, free and clear of any claim by the
25 CONSULTANT or anyone claiming any right through the CONSULTANT. The
26 CONSULTANT further acknowledges and agrees the COUNTY's ownership rights in such
27 drawings or work product, shall apply regardless of whether such drawings or work product,
28 or any copies thereof, are in possession of the CONSULTANT, or any other person, firm,

1 corporation, or entity. For purposes of this Agreement the terms "drawings and work
2 product" shall mean all reports and study findings commissioned to develop the PROJECT
3 design, drawings and schematic or preliminary design documents, certified reproducibles of
4 the original final construction contract drawings, specifications, the approved estimate,
5 record drawings, as-built plans, and discoveries, developments, designs, improvement,
6 inventions, formulas, processes, techniques, or specific know-how and data generated or
7 conceived or reduced to practice or learning by the CONSULTANT, either alone or jointly
8 with others, that result from the tasks assigned to the CONSULTANT by the COUNTY
9 under this Agreement.

10 C. If this Agreement is terminated during or at the completion of any phase under
11 Article 3, electronic and reproducible copies of report(s) or preliminary documents shall be
12 submitted by the CONSULTANT to the COUNTY, which may use them to complete the
13 PROJECT(S) at a future time.

14 D. If the PROJECT is terminated at the completion of a construction document
15 phase of the PROJECT, electronic and certified reproducibles on 4 mil thick double matte
16 film of the original final construction contract drawings, specifications, and approved
17 engineer's estimate shall be submitted by the CONSULTANT to the COUNTY.

18 E. Documents, including drawings and specifications, prepared by the
19 CONSULTANT pursuant to this Agreement are intended to be suitable for reuse by the
20 COUNTY or others on extensions of the services provided for PROJECT. Any use of
21 completed documents for projects other than PROJECT(S) and/or any use of uncompleted
22 documents will be at the COUNTY'S sole risk and without liability or legal exposure to the
23 CONSULTANT.

24 The electronic files provided by the CONSULTANT to the COUNTY are submitted
25 for an acceptance period lasting until the expiration of this Agreement (i.e., throughout the
26 duration of the contract term, including any extensions). Any defects the COUNTY
27 discovers during such acceptance period will be reported to the CONSULTANT and will be
28 corrected as part of the CONSULTANT'S "Basic Scope of Work."

1 F. The CONSULTANT shall not be liable for claims, liabilities or losses arising out
2 of, or connected with (1) the modification or misuse by the COUNTY or anyone authorized
3 by the COUNTY, of such CAD data, or (2) decline of accuracy or readability of CAD data
4 due to inappropriate storage conditions or duration; or (3) any use by the COUNTY, or
5 anyone authorized by the COUNTY, of such CAD data or other PROJECT documentation
6 for additions to the PROJECT for the completion of the PROJECT by others, or for other
7 projects; except to the extent that said use may be expressly authorized, in writing, by the
8 CONSULTANT.

9 G. The COUNTY, in the discretion of its Board of Supervisors, may permit the
10 copyrighting of reports or other products. If copyrights are permitted, the CONSULTANT
11 hereby agrees and this Agreement shall be deemed to provide that the Federal Highway
12 Administration shall have the royalty-free nonexclusive and irrevocable right to reproduce,
13 publish, or otherwise use, and to authorize others to use, the work for government
14 purposes.

15 20. CONSULTANT'S LEGAL AUTHORITY

16 The CONTRACTOR represents and warrants to the COUNTY that:.

17 A. The CONTRACTOR is duly authorized and empowered to sign and perform
18 its obligations under this Agreement; and

19 B. The individual signing this Agreement on behalf of the CONTRACTOR is duly
20 authorized to do so and his or her signature on this Agreement legally binds the
21 CONTRACTOR to the terms of this Agreement.

22 21. BINDING UPON SUCCESSORS

23 This Agreement shall be binding upon and inure to the benefit of the parties and
24 their respective successors in interest, assigns, legal representatives, and heirs.

25 22. SEVERABILITY

26 If any part of this Agreement is determined by a court of competent jurisdiction to be
27 unlawful or otherwise unenforceable, then this Agreement shall be construed as not
28

1 containing such provision, and all other provisions which are otherwise lawful shall remain
2 in full force and effect, and to this end the provisions of this Agreement are hereby declared
3 to be severable.

4 **23. STATE PREVAILING WAGE RATES**

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

9 B. The CONSULTANT shall comply with all of the applicable provisions of the
10 California Labor Code requiring the payment of prevailing wages. The General Prevailing
11 Wage Rate Determinations applicable to work under this Agreement are available from the
12 Department of Industrial Relations website <http://www.dir.ca.gov>. These wage rates are
13 made a specific part of this Agreement by reference pursuant to Labor Code §1773.2 and
14 will be applicable to work performed at a construction project site. Prevailing wages will be
15 applicable to all inspection work performed at COUNTY construction sites, at COUNTY
16 facilities and at off-site locations that are set up by the construction contractor or one of its
17 subcontractors solely and specifically to serve COUNTY projects. Prevailing wage
18 requirements do not apply to inspection work performed at the facilities of vendors and
19 commercial materials suppliers that provide goods and services to the general public.

20 **C. Payroll Records**

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

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

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

a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

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

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

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

4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the COUNTY shall be marked

1 or obliterated in such a manner as to prevent disclosure of each individual's name, address,
2 and social security number. The name and address of the CONSULTANT or Subconsultant
3 performing the work shall not be marked or obliterated.

4 5. The CONSULTANT shall inform the COUNTY of the location of the
5 records enumerated under paragraph (1) above, including the street address, city and
6 county, and shall, within five (5) working days, provide a notice of a change of location and
7 address.

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

17 D. When prevailing wage rates apply, the CONSULTANT is responsible for
18 verifying compliance with certified payroll requirements. Invoice payment will not be made
19 until the invoice is approved by the COUNTY Contract Administrator.

20 E. Penalty

21 1. The CONSULTANT and any of its Subconsultants shall comply with
22 Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any
23 Subconsultant shall forfeit to the COUNTY a penalty of not more than two hundred dollars
24 (\$200) for each calendar day, or portion thereof, for each worker paid less than the
25 prevailing rates as determined by the Director of DIR for the work or craft in which the
26 worker is employed for any public work done under the Agreement by the CONSULTANT
27 or by its Subconsultant in violation of the requirements of the Labor Code and in particular,
28 Labor Code §§1770 to 1780, inclusive.

1 2. The amount of this forfeiture shall be determined by the Labor
2 Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of
3 the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or
4 the previous record of the CONSULTANT or Subconsultant in meeting their respective
5 prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to
6 pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to
7 pay the correct rates of prevailing wages is not excusable if the CONSULTANT or
8 Subconsultant had knowledge of the obligations under the Labor Code. The
9 CONSULTANT is responsible for paying the appropriate rate, including any escalations that
10 take place during the term of the Agreement.

11 3. In addition to the penalty and pursuant to Labor Code §1775, the difference
12 between the prevailing wage rates and the amount paid to each worker for each calendar
13 day or portion thereof for which each worker was paid less than the prevailing wage rate
14 shall be paid to each worker by the CONSULTANT or Subconsultant.

15 4. If a worker employed by a Subconsultant on a public works project is
16 not paid the general prevailing per diem wages by the Subconsultant, the prime
17 CONSULTANT of the project is not liable for the penalties described above unless the
18 prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the
19 specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails
20 to comply with all of the following requirements:

21 a. The Agreement executed between the CONSULTANT and the
22 Subconsultant for the performance of work on public works projects shall include a copy of
23 the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.

24 b. The CONSULTANT shall monitor the payment of the specified general
25 prevailing rate of per diem wages by the Subconsultant to the employees by periodic
26 review of the certified payroll records of the Subconsultant.

27 c. Upon becoming aware of the Subconsultant's failure to pay the
28 specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall

1 diligently take corrective action to halt or rectify the failure, including but not limited to,
2 retaining sufficient funds due the Subconsultant for work performed on the public works
3 project.

4 d. Prior to making final payment to the Subconsultant for work performed
5 on the public works project, the CONSULTANT shall obtain an affidavit signed under
6 penalty of perjury from the Subconsultant that the Subconsultant had paid the specified
7 general prevailing rate of per diem wages to the Subconsultant's employees on the public
8 works project and any amounts due pursuant to Labor Code §1813.

9 5. Pursuant to Labor Code §1775, the COUNTY shall notify the
10 CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a
11 complaint that a Subconsultant has failed to pay workers the general prevailing rate of per
12 diem wages.

13 6. If the COUNTY determines that employees of a Subconsultant were
14 not paid the general prevailing rate of per diem wages and if the COUNTY did not retain
15 sufficient money under the Agreement to pay those employees the balance of wages owed
16 under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an
17 amount of moneys due the Subconsultant sufficient to pay those employees the general
18 prevailing rate of per diem wages if requested by the COUNTY.

19 F. Hours of Labor

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

1 than one and one half (1.5) times the basic rate of pay, as provided in §1815.

2 G. Employment of Apprentices

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

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

15 *For a CONSULTANT that will not be offering services pertaining to projects funded by
16 federal sources (Appendix B Scope lists Consultant eligibility to offer services).*

17 Articles 24-39 Not used

18 *OR For a CONSULTANT that will be offering services pertaining to projects funded by
19 federal sources (Appendix B Scope lists Consultant eligibility):*

20 24. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

21 A. This Agreement is subject to 49 Code of Federal Regulations (hereinafter referred
22 to as "49 CFR"), Part 26 Participation by Disadvantaged Business Enterprises in
23 Department of Transportation Financial Assistance Programs, Disadvantaged Business
24 Enterprise programs established by other federal agencies and/or the COUNTY'S
25 Disadvantaged Business Enterprise Program (all of which are hereinafter referred to as
26 "DBE PROGRAM(S)").

27 B. The CONSULTANT is responsible for being fully informed regarding the

1 requirements of 49 CFR, Part 26 and the CALTRANS Disadvantaged Business Enterprise
2 program developed pursuant to the regulations, as detailed in Appendix J, attached hereto
3 and incorporated herein.

4 C. The CONSULTANT, subrecipient (the COUNTY), or subconsultant shall take
5 necessary and reasonable steps to ensure that DBEs have opportunities to participate in
6 the contract (49 CFR Part 26). To ensure equal participation of DBEs as provided in 49
7 CFR Section 26.5, the COUNTY specifies a contract goal for DBEs. The CONSULTANT
8 shall make work available to DBEs and allocate portions of the work consistent with
9 available DBE subconsultants and suppliers.

10 The CONSULTANT shall meet the DBE goal shown elsewhere in these special
11 provisions or demonstrate its having made adequate good faith efforts to meet this goal. It
12 is the CONSULTANT's responsibility to verify that the DBE firm is certified as DBE at date
13 of proposal opening and document the record by printing out the California Unified
14 Certification Program (CUCP) data for each DBE firm. A list of DBEs certified by the CUCP
15 can be found at <https://dot.ca.gov/programs/civil-rights/dbe-search>.

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

19 • 100 percent counts if the materials or supplies are obtained from a DBE
20 manufacturer.

21 • 60 percent counts if the materials or supplies are purchased from a DBE
22 regular dealer.

23 • Only fees, commissions, and charges for assistance in the procurement
24 and delivery of materials or supplies count if obtained from a DBE that is neither a
25 manufacturer nor regular dealer. 49 CFR Section 26.55 defines "manufacturer" and
26 "regular dealer."

27 This Agreement is subject to 49 CFR Part 26 entitled "Participation by
28 Disadvantaged Business Enterprises in Department of Transportation Financial Assistance

1 Programs". Any CONSULTANT who enters into a federally funded agreement will assist
2 the COUNTY in a good faith effort to achieve California's statewide overall DBE goal.

3 D. The goal for DBE participation for this AGREEMENT is 13.0%. Participation by a
4 DBE CONSULTANT or subconsultants shall be in accordance with information contained in
5 Exhibit 10-02: Consultant Contract DBE Commitment attached hereto and incorporated as
6 part of the AGREEMENT as Appendix K. If a DBE subconsultant is unable to perform, the
7 CONSULTANT must make a good faith effort to replace them with another DBE
8 subconsultant, if the goal is not otherwise met.

9 E. The CONSULTANT can meet the DBE participation goal by either documenting
10 commitments to DBEs to meet the Agreement goal, or by documenting adequate good faith
11 efforts to meet the Agreement goal. An adequate good faith effort means that the
12 CONSULTANT must show that it took all necessary and reasonable steps to achieve a
13 DBE goal that, by their scope, intensity, and appropriateness to the objective, could
14 reasonably be expected to meet the DBE goal. If the CONSULTANT has not met the DBE
15 goal, the CONSULTANT must then complete and submit Exhibit 15-H: DBE Information –
16 Good Faith Efforts to document its efforts to meet the goal. Refer to 49 CFR Part 26 for
17 guidance regarding evaluation of good faith efforts to meet the DBE goal.

18 **F. Contract Assurance**

19 Under 49 CFR Section 26.13(b):

20 The CONSULTANT, subrecipient or subconsultant shall not discriminate on the
21 basis of race, color, national origin, or sex in the performance of this contract. The
22 CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and
23 administration of federal-aid contracts.

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

27 (1) Withholding monthly progress payments;
28 (2) Assessing sanctions;

- (3) Liquidated damages; and/or
- (4) Disqualifying CONSULTANT from future proposing as non-responsible

G. Termination and Substitution of DBE Subconsultants

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

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

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

1 9. Listed DBE is ineligible to receive credit for the type of work required.

2 10. Listed DBE owner dies or becomes disabled resulting in the inability to
3 perform the work on the Contract.

4 11. The COUNTY determines other documented good cause.

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

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

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

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

H. Commitment and Utilization

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

20 The COUNTY shall request the CONSULTANT to:

- 21 1. Notify the COUNTY's contract administrator or designated representative of
22 any changes to its anticipated DBE participation
- 23 2. Provide this notification before starting the affected work
- 24 3. Maintain records including:
 - 25 • Name and business address of each 1st-tier subconsultant
 - 26 • Name and business address of each DBE subconsultant, DBE vendor,
27 and DBE trucking company, regardless of tier
 - 28 • Date of payment and total amount paid to each business (see Exhibit 9-F)

1 Monthly Disadvantaged Business Enterprise Payment)

2 If the CONSULTANT is a DBE CONSULTANT, it shall include the date(s) of work
3 performed by its own forces and the corresponding value of all such work. If a DBE is
4 decertified before completing its work, the DBE must notify CONSULTANT in writing of the
5 decertification date. If a business becomes a certified DBE before completing its work, the
6 business must notify the CONSULTANT in writing of the certification date. The
7 CONSULTANT shall submit the notifications to the COUNTY. On work completion, the
8 CONSULTANT shall complete a Disadvantaged Business Enterprises (DBE) Certification
9 Status Change, Exhibit 17-O, form and submit the form to the COUNTY within 30 days of
10 contract acceptance.

11 Upon work completion, the CONSULTANT shall complete Exhibit 17-F Final Report –
12 Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and
13 submit it to the COUNTY within 90 days of contract acceptance. The COUNTY will withhold
14 \$10,000 until the form is submitted. The COUNTY will release the withhold upon
15 submission of the completed form. In the COUNTY's reports of DBE participation to
16 Caltrans, the COUNTY must display both commitments and attainments.

17 I. Eligibility

18 A DBE is only eligible to be counted toward the Agreement goal if it performs a
19 commercially useful function (CUF) on the Agreement. CUF must be evaluated on an
20 agreement-by-agreement basis. A DBE performs a Commercially Useful Function (CUF)
21 when it is responsible for execution of the work of the Agreement and is carrying out its
22 responsibilities by actually performing, managing, and supervising the work involved. To
23 perform a CUF, the DBE must also be responsible, with respect to materials and supplies
24 used on the Agreement, for negotiating price, determining quality and quantity, ordering the
25 material and installing (where applicable), and paying for the material itself. To determine
26 whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry
27 practices, whether the amount the firm is to be paid under the Agreement is commensurate
28 with the work it is actually performing, and other relevant factors.

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

6 K. If a DBE does not perform or exercise responsibility for at least thirty percent
7 (30%) of the total cost of its Agreement with its own work force, or the DBE subcontracts a
8 greater portion of the work of the Agreement than would be expected on the basis of
9 normal industry practice for the type of work involved, it will be presumed that it is not
10 performing a CUF.

11 L. The CONSULTANT shall maintain records of materials purchased or supplied
12 from all subcontracts entered into with certified DBEs. The records shall show the name
13 and business address of each DBE or vendor and the total dollar amount actually paid
14 each DBE or vendor, regardless of tier. The records shall show the date of payment and
15 the total dollar figure paid to all firms. DBE CONSULTANTs shall also show the date of
16 work performed by their own forces along with the corresponding dollar value of the work.

17 M. If a DBE subconsultant is decertified during the life of the Agreement, the
18 decertified subconsultant shall notify CONSULTANT in writing with the date of
19 decertification. If a subconsultant becomes a certified DBE during the life of the Agreement,
20 the subconsultant shall notify the CONSULTANT in writing with the date of certification. Any
21 changes should be reported to COUNTY's Contract Administrator within thirty (30) calendar
22 days.

23 N. After submitting an invoice for reimbursement that includes a payment to a DBE,
24 but no later than the 10th of the following month, the CONSULTANT shall complete and
25 email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to
26 business.support.unit@dot.ca.gov with a copy to the Agency.

27 O. Any subcontract entered into as a result of this Agreement shall contain all of the
28 provisions of this Article 24.

1 25. COST PRINCIPLES

2 A. The CONSULTANT agrees that the 48 CFR Part 31 Contract Cost Principles and
3 Procedures shall be used to determine the allowability of cost.

4 B. The CONSULTANT also agrees to comply with federal procedures in accordance
5 with Title 49 CFR, Part 18 Uniform Administrative Requirements, Cost Principles, and Audit
6 Requirements for Federal Awards.

7 C. Any costs for which payment has been made to the CONSULTANT that are
8 determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part
9 200 are subject to repayment by the CONSULTANT to the COUNTY.

10 D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an
11 Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform
12 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
13 shall apply.

14 26. AUDIT REVIEW PROCEDURES

15 A. Any dispute concerning a question of fact arising under an interim or post audit of
16 this Agreement that is not disposed of by agreement between the parties, shall be reviewed
17 by the COUNTY's Auditor/Controller/Treasurer/Tax-Collector.

18 B. Not later than 30 days after issuance of the final audit report, the CONSULTANT
19 may request a review by the COUNTY's Auditor/Controller/Treasurer/Tax-Collector of
20 unresolved audit issues. The request for review will be submitted in writing.

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

24 D. The CONSULTANT and subconsultants' contracts, including cost proposals and
25 indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a
26 Contract Audit, an Incurred Cost Audit, an ICR Audit, or a certified public accountant (CPA)
27 ICR Audit Workpaper Review. If selected for audit or review, the contract, cost proposal
28 and ICR and related workpapers, if applicable, will be reviewed to verify compliance with 48

1 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit
2 Workpaper Review it is the CONSULTANT's responsibility to ensure federal, state, or local
3 government officials are allowed full access to the CPA's workpapers, including making
4 such copies as the auditor deems necessary. This Agreement, the CONSULTANT'S Cost
5 Proposal (Appendix E), and ICR shall be adjusted by the CONSULTANT and approved by
6 the CONTRACT ADMINISTRATOR to conform to the audit or review recommendations.
7 The CONSULTANT agrees that individual terms of costs identified in the audit report shall
8 be incorporated into the contract by this reference if directed by the COUNTY at its sole
9 discretion. Refusal by the CONSULTANT to incorporate audit or review recommendations,
10 or to ensure that the Federal, State, or local governments have access to CPA workpapers,
11 will be considered a breach of contract terms and cause for termination of this Agreement
12 and disallowance of prior reimbursed costs.

13 E. The CONSULTANT's Cost Proposal (Appendix E) may be subject to a CPA ICR
14 Audit Work Paper Review and/or audit by the Independent Office of Audits and
15 Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the
16 CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and
17 approved by the COUNTY'S CONTRACT ADMINISTRATOR to conform to the Work
18 Paper Review recommendations included in the management letter or audit
19 recommendations included in the audit report. Refusal by the CONSULTANT to incorporate
20 the Work Paper Review recommendations included in the management letter or audit
21 recommendations included in the audit report will be considered a breach of the Agreement
22 terms and cause for termination of the Agreement and disallowance of prior reimbursed
23 costs.

24 1. During IOAI's review of the ICR audit work papers created by the
25 CONSULTANT's independent CPA, IOAI will work with the CPA and/or the CONSULTANT
26 toward a resolution of issues that arise during the review. Each party agrees to use its best
27 efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues
28 during the review and is unable to issue a cognizant approval letter, the COUNTY will

1 reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition
2 Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing
3 Standards); CAS (Cost Accounting Standards), if applicable; in accordance with
4 procedures and guidelines of the American Association of State Highways and
5 Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and
6 guidelines} is received and approved by IOAI.

7 Accepted rates will be as follows:

8 a. If the proposed rate is less than one hundred fifty percent (150%) - the
9 accepted rate reimbursed will be ninety percent (90%) of the proposed rate.

10 b. If the proposed rate is between one hundred fifty percent (150%) and
11 two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of
12 the proposed rate.

13 c. If the proposed rate is greater than two hundred percent (200%) - the
14 accepted rate will be seventy-five percent (75%) of the proposed rate.

15 2. If IOAI is unable to issue a cognizant letter per Paragraph E.1. above, IOAI
16 may require the CONSULTANT to submit a revised independent CPA-audited ICR and
17 audit report within three (3) months of the effective date of the management letter. IOAI will
18 then have up to six (6) months to review the CONSULTANT's and/or the independent
19 CPA's revisions.

20 3. If the CONSULTANT fails to comply with the provisions of this Section E, or if
21 IOAI is still unable to issue a cognizant approval letter after the revised independent CPA
22 audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR
23 that was established upon initial rejection of the ICR and set forth in Paragraph E.1. above
24 for all rendered services. In this event, this accepted ICR will become the actual and final
25 ICR for reimbursement purposes under this Agreement.

26 4. The CONSULTANT may submit to the COUNTY final invoice only when all of
27 the following items have occurred: (1) IOAI accepts or adjusts the original or revised
28 independent CPA audited ICR; (2) all work under this Agreement has been completed to

1 the satisfaction of the COUNTY; and (3) IOAI has issued its final ICR review letter. The
2 **CONSULTANT must submit its final invoice to the COUNTY** no later than sixty (60)
3 calendar days after occurrence of the last of these items. The accepted ICR will apply to
4 this Agreement and all other agreements executed between the COUNTY and the
5 CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

6 **27. EQUIPMENT PURCHASE**

7 A. Prior authorization, in writing, by the CONTRACT ADMINISTRATOR shall be
8 required before the CONSULTANT enters into any unbudgeted purchase order, or
9 subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or
10 CONSULTANT services. The CONSULTANT shall provide an evaluation of the necessity
11 or desirability of incurring such costs.

12 B. Prior authorization by the CONTRACT ADMINISTRATOR shall be required for
13 purchase of any item, service or consulting work in excess of \$5,000 that is not covered in
14 the CONSULTANT'S Cost Proposal; and the CONSULTANT'S request must be
15 accompanied by at least three competitive quotations, unless the absence of proposal is
16 adequately justified, to the satisfaction of the CONTRACT ADMINISTRATOR in his/her
17 discretion, by written explanation provided by the CONSULTANT with its submittal.

18 C. Any authorized purchase of equipment as a result of this Agreement is subject to
19 the following: "The CONSULTANT shall maintain an inventory of all nonexpendable
20 property. Nonexpendable property is defined as having a useful life of at least two years
21 and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement
22 and is sold or traded in, the COUNTY shall receive a proper refund or credit at the
23 conclusion of the contract, or if the contract is terminated, the CONSULTANT may either
24 keep the equipment and credit the COUNTY in an amount equal to its fair market value, or
25 sell such equipment at the best price obtainable at a public or private sale, in accordance
26 with established COUNTY procedures; and credit the COUNTY in an amount equal to the
27 sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be
28 determined at the CONSULTANT'S expense, on the basis of a competent independent

1 appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually
2 agreeable to by the COUNTY and the CONSULTANT, if it is determined to sell the
3 equipment, the terms and conditions of such sale must be approved in advance by the
4 COUNTY." Title 49 CFR, Part 200 requires a credit to Federal funds when participating
5 equipment with a fair market value greater than \$5,000.00 is credited to the PROJECT.

6 **28. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

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

13 **29. PROHIBITION OF EXPENDING COUNTY STATE OR FEDERAL FUNDS FOR**
14 **LOBBYING**

15 A. The CONSULTANT certifies (Appendix L) to the best of his or her knowledge and
16 belief that:

17 1. No state, federal or COUNTY appropriated funds have been paid, or will be
18 paid by or on behalf of the CONSULTANT to any person for influencing or attempting to
19 influence an officer or employee of any state or federal agency; a Member of the State
20 Legislature or United States Congress; an officer or employee of the Legislature or
21 Congress; or any employee of a Member of the Legislature or Congress, in connection with
22 any of the following:

23 a. the awarding of any state or federal contract;
24 b. the making of any state or federal grant;
25 c. the making of any state or federal loan;
26 d. the entering into of any cooperative agreement, or
27 e. the extension, continuation, renewal, amendment, or modification of
28 any state or federal contract, grant, loan, or cooperative agreement.

1 2. If any funds other than federally appropriated funds have been paid, or will be
2 paid to any person for influencing or attempting to influence an officer or employee of any
3 federal agency; a Member of Congress; an officer or employee of Congress, or an
4 employee of a Member of Congress; in connection with this federal contract, grant, loan, or
5 cooperative agreement, then the CONSULTANT shall complete and submit Standard
6 Form-LLL, "Disclosure Form to Report Lobbying" (Appendix L), in accordance with its
7 instructions.

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

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

18 30. NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

19 A. The CONSULTANT'S signature affixed herein, and dated, shall constitute a
20 certification under penalty of perjury under the laws of the State of California that the
21 CONSULTANT has, unless exempt, complied with, the nondiscrimination program
22 requirements of Government Code §12990 and 2 CCR § 8103.

23 B. During the performance of this Agreement, the CONSULTANT and its
24 subconsultants shall not deny this Agreement's benefits to any person on the basis of race,
25 religious creed, color, national origin, ancestry, physical disability, mental disability, medical
26 condition, genetic information, marital status, sex, gender, gender identity, gender
27 expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully
28 discriminate, harass, or allow harassment against any employee or applicant for

1 employment because of race, religious creed, color, national origin, ancestry, physical
2 disability, mental disability, medical condition, genetic information, marital status, sex,
3 gender, gender identity, gender expression, age, sexual orientation, or military and veteran
4 status. The CONSULTANT and subconsultants shall ensure that the evaluation and
5 treatment of their employees and applicants for employment are free from such
6 discrimination and harassment.

7 C. The CONSULTANT and subconsultants shall comply with the provisions of the
8 Fair Employment and Housing Act (Gov. Code §12990 et seq.) and the applicable
9 regulations promulgated thereunder (2 CCR §11000 et seq.), the provisions of Government
10 Code §§11135 et seq., and the regulations or standards adopted by the COUNTY to
11 implement such provisions. The applicable regulations of the Fair Employment and
12 Housing Commission implementing Government Code Section 12990 (a-f), set forth in
13 Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated
14 into this Agreement by reference and made a part hereof as if set forth in full.

15 D. CONSULTANT shall permit access by representatives of the Department of Fair
16 Employment and Housing and the COUNTY upon reasonable notice at any time during the
17 normal business hours, but in no case less than twenty-four (24) hours' notice, to such of
18 its books, records, accounts, and all other sources of information and its facilities as said
19 Department or the COUNTY shall require in order to ascertain compliance with the
20 requirements of this Article 30.

21 E. The CONSULTANT and subconsultants shall give written notice of their
22 obligations under this Article 30 to labor organizations with which they have a collective
23 bargaining or other agreement.

24 F. The CONSULTANT and subconsultants shall include the nondiscrimination and
25 compliance provisions of this Article 30 in all subcontracts to perform work under this
26 Agreement.

27 G. The CONSULTANT, with regard to the work performed under this Agreement,
28 shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et

1 seq.). Title VI provides that the recipients of federal assistance will implement and maintain
2 a policy of nondiscrimination in which no person in the United States shall, on the basis of
3 race, color, national origin, religion, sex, age, disability, be excluded from participation in,
4 denied the benefits of or subject to discrimination under any program or activity by the
5 recipients of federal assistance or their assignees and successors in interest.

6 H. The CONSULTANT shall comply with regulations relative to non-discrimination in
7 federally assisted programs of the U.S. Department of Transportation (49 CFR Part 21 -
8 Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall
9 not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5,
10 including employment practices and the selection and retention of Subconsultants.

11 I. The CONSULTANT, subrecipient or subconsultant will never exclude any person
12 from participation in, deny any person the benefits of, or otherwise discriminate against
13 anyone in connection with the award and performance of any contract covered by 49 CFR
14 26 on the basis of race, color, sex, or national origin. In administering the COUNTY
15 components of the DBE Program Plan, the CONSULTANT, subrecipient or subconsultant
16 will not, directly, or through contractual or other arrangements, use criteria or methods of
17 administration that have the effect of defeating or substantially impairing accomplishment of
18 the objectives of the DBE Program Plan with respect to individuals of a particular race,
19 color, sex, or national origin.

20 **31. DEBARMENT AND SUSPENSION CERTIFICATION**

21 A. The CONSULTANT'S signature affixed herein, shall constitute a certification
22 under penalty of perjury under the laws of the State of California, that the CONSULTANT
23 has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and
24 Suspension Certificate, which certifies that the CONSULTANT or any person associated
25 therewith in the capacity of owner, partner, director, officer, or manager:

26 1. Is not currently under suspension, debarment, voluntary exclusion, or
27 determination of ineligibility by any federal agency;
28 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible

1 by any federal agency within the past three (3) years;
2
3 3. Does not have a proposed debarment pending; and
4
5 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a
6 court of competent jurisdiction in any matter involving fraud or official misconduct
7 within the past three (3) years.

8
9 B. Any exceptions to this certification must be disclosed to the COUNTY on
10 Appendix M. Exceptions will not necessarily result in denial of recommendation for award
11 but will be considered in determining CONSULTANT responsibility. Disclosures must
12 indicate to whom exceptions apply, initiating agency, and dates of action.

13 C. Exceptions to the Federal Government Excluded Parties Listing System
14 maintained by the General Services Administration are to be determined by the Federal
15 Highway Administration.

16
17 **32. FUNDING REQUIREMENTS**

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

22 B. This Agreement is subject to any additional restrictions, limitations, conditions, or
23 any legislation enacted by the Congress, State Legislature or the COUNTY'S Board of
24 Supervisors that may affect the provisions, terms, or funding of this Agreement in any
25 manner.

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

28 D. The COUNTY has the option to void this Agreement under the 30-day
29 cancellation clause, or to amend this Agreement by mutually acceptable modification of its
30 provisions to reflect any reduction of funds.

31
32 **33. CONTINGENT FEES**

33 The CONSULTANT warrants, by execution of this Agreement that no person or

1 selling agency has been employed, or retained, to solicit or secure this Agreement upon an
2 agreement or understanding, for a commission, percentage, brokerage, or contingent fee,
3 excepting bona fide employees, or bona fide established commercial or selling agencies
4 maintained by the CONSULTANT for the purpose of securing business. For breach or
5 violation of this warranty, the COUNTY has the right to: annul this Agreement without
6 liability, and to pay only for the value of the work actually performed; or in its discretion to
7 deduct from the Agreement price or consideration, or otherwise recover, the full amount of
8 such commission, percentage, brokerage, or contingent fee.

9 34. INSPECTION OF WORK

10 The CONSULTANT and any subcontractor shall permit the COUNTY, the state, and
11 the FHWA to review and inspect the PROJECT activities and files at all reasonable times
12 during the performance period of this Agreement including review and inspection on a daily
13 basis.

14 35. SAFETY

15 A. The CONSULTANT shall comply with OSHA regulations applicable to
16 CONSULTANT regarding necessary safety equipment or procedures. The CONSULTANT
17 shall comply with safety instructions issued by the COUNTY Safety Officer and other
18 COUNTY representatives. The CONSULTANT'S personnel shall wear hard hats and
19 safety vests at all times while working on the construction project site.

20 B. Pursuant to the authority contained in Vehicle Code §591, the COUNTY has
21 determined that such areas are within the limits of the project and are open to public traffic.
22 The CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12,
23 13, 14, and 15 of the Vehicle Code. The CONSULTANT shall take all reasonably
24 necessary precautions for safe operation of its vehicles and the protection of the traveling
25 public from injury and damage from such vehicles.

26 C. The CONSULTANT must have a Division of Occupational Safety and Health
27 (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of
28 any practices, work, method, operation, or process related to the construction or excavation

1 of trenches which are five (5) feet or deeper.

2 36. CLAIMS FILED BY THE COUNTY'S CONSTRUCTION CONTRACTOR

3 A. If claims are filed by the COUNTY's construction contractor relating to work
4 performed by the CONSULTANT'S personnel, and additional information or assistance
5 from the CONSULTANT'S personnel is required in order to evaluate or defend against such
6 claims, then the CONSULTANT hereby agrees in such event to make its personnel
7 available for consultation with the COUNTY's construction contract administration and legal
8 staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

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

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

18 37. CONFIDENTIALITY OF DATA

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

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

26 C. The CONSULTANT shall not comment publicly to the press or any other media
27 regarding this Agreement or the COUNTY's actions on the same, except to the COUNTY's
28 staff, the CONSULTANT'S own personnel involved in the performance of this Agreement,

1 at public hearings or in response to questions from a Legislative committee.

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

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

17 **38. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

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

24 **39. EVALUATION OF THE CONSULTANT**

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

1 40. ENTIRE AGREEMENT

2 This Agreement constitutes the entire agreement between the CONSULTANT and
3 COUNTY with respect to the subject matter hereof and supersedes all previous
4 negotiations, proposals, commitments, writings, advertisements, publications, and
5 understandings of any nature whatsoever unless expressly included in this Agreement. In
6 the event of any inconsistency in interpreting the documents which constitute this
7 Agreement, the inconsistency shall be resolved by giving precedence in the following order
8 of priority: (1) the text of this Agreement (2) the COUNTY'S Request for Qualification "On-
9 Call A&E, Staff Augmentation and Related Services"; and (3) the CONSULTANT's
10 Statement of Qualification made in response to COUNTY'S Request for Qualification. In
11 consideration of promises, covenants and conditions contained in this Agreement, the
12 CONSULTANT and the COUNTY, and each of them, do hereby agree to diligently perform
13 in accordance with the terms and conditions of this Agreement, as evidenced by the
14 signatures below.

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1 41. SIGNATURES

2 IN WITNESS WHEREOF, the parties have executed this Agreement on the date
3 set forth above.

4
5 CONTRACTOR

6
7 (Authorized Signature)

8
9 Print Name & Title

10 Mailing Address

11
12 COUNTY OF FRESNO

13
14 Steven White, Director
15 Department of Public Works and
16 Planning

17
18 FOR ACCOUNTING USE ONLY:

19 Fund: 0001 / 0010 / 0400 / 0700 / 0701 / 0710 / 0720 / 0801

20 Subclass: 10000 / 11000 / 15000 / 15001 / 16900

21 Org: 4360 / 4365 / 4511 / 4512 / 4513 / 4514 / 7205 / 7910 / 8852 / 8853 / 8861 / 8863 / 8865
/ 8867 / 9015 / 9020 / 9026 / 9028 / 9140

22 Account: 7295

23

24

25

26

27

28

Appendix A – List of All Consultants and Project Managers

A&M Consulting Engineers

220 North Locust Street, Visalia, CA
93291

Project Manager: Orfil Muniz
(559) 429-4747
orfil@am-engr.com

Applied EarthWorks

1391 Shaw Ave., Suite C Suite 201,
Fresno, CA 93711

Project Manager: Erin Enright
(805) 594-1590 x316
eenright@appliedearthworks.com

Area West Environmental, Inc.

6248 Main Avenue, Suite C,
Orangevale, CA 95662

Project Manager: Becky Rozumowicz-
Kodsuntie
(916) 987-3362
becky@areawest.net

Avila & Associates

1300 Galaxy Way, Suite 12, Concord,
CA 94520

Project Manager: Catherine Avila
(925) 672-0549
cavila@avilaassociates.com

Bedrock Engineering, Inc.

PO Box 25783, Fresno, CA 93729
Project Manager: Michael Hartley
(559) 645-4849 x303
mike@bedrockeng.com

Blair, Church & Flynn Consulting Engineers

451 Clovis Ave. Suite 200, Clovis, CA
93611
Project Manager: Jeffrey Brians
(559) 326-1400
jbrians@bcf-engr.com

Blue Ridge Services Montana, Inc.

601 Kelly Ridge Road, Victor, MT 59875
Project Manager: Jason Todaro
6685 Morro Road, Atascadero, CA
93422
(805) 461-6850
jason@blueridgeservices.com

Borreli And Associates, Inc

2032 N. Gateway Blvd., Fresno, CA
93727
Project Manager: John Borrelli
(559) 285-6086
johnb@borrelliengineering.com

BSK Associates

550 W Locust Avenue, Fresno, CA
93650

Project Manager: Michael Collins
(559) 497-2880 x182
mcollins@bskassociates.com

**Civil & Environmental Consultants,
Inc.**

333 Baldwin Road, Pittsburgh, PA
15205
Project Manager: Darrell Thompson
2356 Mountain View Ave, Sacramento,
CA 95670
(760) 977-8106
dthompson@cecinc.com

**Cogstone Resource Management,
Inc. (DBA: Cogstone)**

1518 W. Taft Ave., Orange, CA 92865
Project Manager: Molly Valasik
(714) 974-8300
mvalasik@cogstone.com

**Cornerstone Structural Engineering
Group, Inc.**

986 W Alluvial Ave Ste. 201, Fresno, CA
93711
Project Manager: Mark Weaver
(559) 320-3200
mweaver@cseg.com

Dewberry Engineers, Inc.

575 East Locust Avenue, Suite 204,
Fresno, CA 93720

Project Manager: Mike Pugh
(916) 420-1985
mpugh@dewberry.com

Electrical Power Systems, Inc

2187 Herndon Avenue, #102, Clovis,
CA 93611

Project Manager: Joseph P. Prevendar
(559) 221-7230
joe@epsfresno.com

Geo-Logic Associates

2777 East Guasti Rd. Suite 1, Ontario,
CA 91761

Project Manager: Jake Russell
143E Spring Hill Drive, Grass Valley, CA
95945
(530) 272-2448
jrussell@geo-logic.com

Ghirardelli Associates, Inc.

2990 Lava Ridge Ct. Suite 120,
Roseville, CA 95661

Project Manager: Hugo Mejia
(559) 250-9682
hmejia@ghirardelliassoc.com

Golder Associates USA Inc. / WSP USA Inc.

1000 Enterprise Way, Suite 190,
Roseville, CA, 95678

Project Manager: Jeff Dobrowolski
(949) 396-5737
jdobrowolski@golder.com

Huber & Huber ARCHITECTS

10796 N. Tea Party Lane, Fresno, CA
93730-5920

Project Manager: Ann Huber
(559) 470-7721
ann@hharchitects.net

JLB Traffic Engineering, Inc.

516 W Shaw Ave, Ste. 103, Fresno, CA
93704

Project Manager: Jose Luis Benavides
(559) 570-8991
jbenavides@jlbtraffic.com

Kitchell

2344 Tulare Street, Suite 102 Fresno,
CA 93721

Project Manager: Rick Barton
(559) 936-2360
rbarton@kitchell.com

Kleinfelder, Inc.

3731 W. Ashcroft Avenue, Fresno, CA
93722

Project Manager: Stephen Plauson
(559) 577-1449
splauson@kleinfelder.com

Krazan & Associates, Inc.

215 W Dakota Ave, Clovis, CA 93612

Project Manager: David R. Jarosz
(559) 348-2200
DaveJ@krazan.com

Lawrence Engineering Group

7084 North Maple Avenue, Suite 101,
Fresno, CA 93720

Project Manager: Ryan Carlson
(559) 431-0101 x103
ryan@legfresno.com

Live Oak Associates, Inc.

39930 Sierra Way, Suite B, Oakhurst,
CA 93644

Project Manager: Austin Pearson
(559) 760-3065
apearson@loainc.com

LSA Associates, Inc. (doing business as LSA)

2565 Alluvial Avenue, Suite 172, Clovis, CA 93611

Project Manager: Amanda Durgen

1504 Eureka Road, Suite 310, Roseville, CA 95661
(916) 905-3937

Amanda.Durgen@lsa.net

Mark Thomas

7571 North Remington Avenue, Suite 102, Fresno, CA 93711

Project Manager: Ed Noriega

(559) 374-3111
enoriega@markthomas.com

Michael Baker International

500 Ygnacio Valley Road, Suite 300, Walnut Creek, CA 94596

Project Manager: Nabaz Saeed

(510) 879-0977
nabaz.saeed@mbakerintl.com

MKN & Associates

8405 N. Fresno Street, Suite 120, Fresno, CA 93720

Project Manager: Henry Liang

(559) 500-4750 x1102
hliang@mknassociates.us

Montrose Environmental Solutions, Inc.

1801 7th Street Suite 100, Sacramento, CA 95811

Project Manager: Kt Alonzo

(916) 447-3479 x15817
kalonzo@montrose-env.com

NV5, Inc.

2109 West Bullard Avenue, Suite 145, Fresno, CA 93711

Project Manager: Kevin Reisz

(559) 417-1008
kevin.reisz@nv5.com

OCMI, Inc.

1300 Clay Street, Suite 900 Oakland, CA 94612

Project Manager: Conor Clarke

(925) 426-1578
conor.clarke@ocmi.com

O'Dell Engineering

7045 N Chestnut Avenue, Suite 103, Fresno, CA 93720

Project Manager: Dylan Crawford

(209) 497-4065
dcrawford@odellengineering.com

PARIKH Consultants, Inc.

1497 N Milpitas Boulevard, Milpitas, CA
95035

Project Manager: David Wang
(408) 690-8839
DWang@parikhnet.com

Peters Engineering Group

862 Pollasky Ave, Clovis, CA 93612
Project Manager: David Peters
(559) 299-1544 x111
dpeters@peters-engineering.com

Provost & Pritchard Consulting Group

455 W Fir Avenue, Clovis, CA 93711
Project Manager: Matthew W. Kemp
(559) 449-2700
mkemp@ppeng.com

Quad Knopf. Inc. (dba QK)

601 Pollasky Avenue, Suite 301, Clovis,
CA 93612
Project Manager: Ernie Escobedo
(559) 449-2400
Ernie.Esobedo@qkinc.com

Quincy Engineering

11017 Cobblerock Dr., Suite 100
Project Manager: Mark Reno
(916) 368-9181
markr@quincyeng.com

Robina Wright Architect and Associates Inc.

4025 N Fresno Ste, 107, Fresno, CA
93726
Project Manager: Robina Wright
(559) 307-7232
robinawrightarchitect.com

Stantec Consulting Services, Inc.

6780 North West Ave., Suite 103,
Fresno, CA 93711
Project Manager: Ralph Carson
(559) 904-1344
ralph.carson@stantec.com

Stearns, Conrad and Schmidt, Consulting Engineers, Inc.

3900 Kilroy Airport Way, Suite 100,
Long Beach, CA 90806
Project Manager: Pat Sullivan
3117 Fite Circle, Suite 108,
Sacramento, CA 95827
(916) 503-2956
psullivan@scsengineers.com

SWCA, Incorporated dba SWCA Environmental Consultants

1422 Monterey Street, Suite C200, San
Luis Obispo, CA 93401
Project Manager: Bill Henry
1422 Monterey Street, Suite B-C200,
San Luis Obispo, CA 93401
(805) 903-1193
bhenry@swca.com

SWT Engineering, Inc

800 S Rochester Ave., STE C, Ontario,
CA 91761

Project Manager: Michael A. Cullinane
(909) 390-1328
mac@swteng.com

**T2 UES, Inc. d/b/a T2 Utility
Engineers**

5622 Research Drive, Huntington
Beach, CA 92649

Project Manager: Glen Robison
(714) 487-5783
glen.robison@t2ue.com

Temple Andersen Moore Architects

6781 N. Palm Avenue, Suite 120,
Fresno, CA 93704

Project Manager: Jared Ramirez
(559) 435-4750
jramirez@tamarchitects.com

Tetra Tech BAS, Inc.

21700 Copley Drive, Suite 200,
Diamond Bar, CA 91765

Project Manager: Caleb Moore
(909) 655-3256
caleb.moore@tetrtech.com

TRC Engineers, Inc.

575 E. Locust Avenue, Suite 105,
Fresno, CA 93720

Project Manager: Robin Yates
(559) 304-1240
RYates@trccompanies.com

**Triple HS, INc. dba H. T. Harvey &
Associates**

8080 N. Palm Avenue, Suite 205,
Fresno, CA 93711

Project Manager: Amy Sparks
(510) 225-5109
asparks@harveyecology.com

Vanir Construction Management, Inc.

2444 Main Street, Suite 130, Fresno,
CA 93721

Project Manager: Scott Murphy
(559) 801-1569
scott.murphy@vanir.com

**Willbanks Environmental Consulting,
Inc**

8413 N Millbrook Ave Suite 110, Fresno,
CA 93720

Project Manager: Noelle Willbanks
(559) 797-4181
Noelle@wecenvironmental.com

Wood Wiley and Jebian

4685 N Cedar Ave. Suite B, Fresno, CA
93726

Project Manager: Anthony Jebian

(559) 225-3633
tjebian@wwjeng.com

Consultant's Scope of Services – Appendix B

Consultant Eligible Services Form

Consultant Firm: _____

CONSULTANT is approved for these services:

Discipline	On-Call	Staff Augmentation	Federally Funded Projects
Archaeology / Architectural History / Paleontology			
Architectural Drafting and Design			
Assessment Engineering			
Biology			
Building Commissioning (LEED)			
Building Plan Checking			
Certified Access Specialist (CASP) Certification			
Civil Engineering			
Construction Management			
Cost Estimating			
Electrical Engineering			
Encroachment Permit Inspections			
Environmental Planning Services			
Geotechnical Engineering			
Grant Writing			
Hydraulic Engineering			
Industrial Hygiene, Hazardous Material, Lead and Asbestos Compliance			
Land Use / Planning			
Landscaping Architecture			
Materials Testing			

Sample Agreement Appendix B – Consultant's Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Discipline	On-Call	Staff Augmentation	Federally Funded Projects
Pavement Management			
Permit Technicians			
Plumbing and Mechanical Engineering			
Solid Waste Engineering			
Structural Engineering			
Surveying			
Traffic and Transportation Engineering			
Utility Locating			
Water Resource Operators			
Water Resources Engineering			

Contract Administrator Signature: _____

CONSULTANT is responsible for all services listed within this scope document for the discipline(s), funding sources and category of service (on-call and/or on-call staff augmentation) which they have been indicated above as well as services listed across discipline.

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Delete sections below not eligible/approved above

Table of Contents

Consultant’s Scope of Services – Appendix B	1
Consultant Eligible Services Form	1
Table of Contents	3
Descriptions of Work by Discipline	5
Archaeology/Architectural History/Paleontology	5
Architectural Design and Drafting	5
Assessment Engineering	5
Biology	6
Building Commissioning (LEED).....	7
Building Plan Checking.....	8
Certified Access Specialist (CASP) Certification.....	8
Civil Engineering.....	8
Construction Management.....	8
Cost Estimating.....	9
Electrical Engineering	9
Environmental Planning Services	10
Geotechnical Engineering.....	11
Grant Writing Services	11
Hydraulic Engineering.....	12
Industrial Hygiene, Hazardous Material, Lead and Asbestos Compliance.....	12
Land Use / Planning	12
Landscape Architecture	13
Materials Testing	13
Pavement Management	13
Plumbing and Mechanical Engineering.....	13
Solid Waste Engineering	13
Structural Engineering	15
Surveying.....	15
Traffic and Transportation Engineering.....	16
Utility Locating	16

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Water Resources Operators	17
Water Resources Engineering	17
On-Call Services	18
Technical Reports	18
Preparation of Various Reports and Studies	18
Preliminary Engineering	19
Prepare Design Plans, Technical Specifications and Construction Estimate	19
Construction Observation	21
Building Plan Checking	24
Staff Augmentation On-Call Services	27
All Staff Augmentation Services	27
Project Design	29
Construction Management	30
Engineering Support	30
Materials Testing	31
Pavement Condition Index Field Reviews	31
Permit Technicians	31
Traffic and Transportation Planning	32
Water Resource Operators	33

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Descriptions of Work by Discipline

Archaeology/Architectural History/Paleontology

1. In general, perform cultural resource research, conduct field surveys, assess project impacts on cultural resources, provide strategic guidance, coordinate and consult with tribal representatives, conduct worker awareness training and construction monitoring, and prepare technical reports/memos for California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA) clearance for transportation projects and on occasion water system, County capital projects, and Housing and Urban Development (HUD) funded projects.
2. Required technical reports may include, but are not limited to, Archaeological Survey Report, Historic Property Survey Report, Historic Resources Evaluation Report, Extended Phase I/II plans/excavations/reports and Finding of Effect documents prepared in accordance with California Department of Transportation (Caltrans) Standard Environmental Reference (SER). On occasion, prepare cultural documents for HUD funded, water system, County capital projects, and transportation projects affecting U.S. Bureau of Reclamation facilities or U.S. Forest Service (USFS) land.

Architectural Design and Drafting

1. Architectural design and drafting, including without limitation the design of County capital projects as well as homes, duplexes, fourplexes and multifamily developments.
2. Drawings and Specifications for Schematic Design, Design Development, and/or Construction Document.
3. 3D renderings upon request for board presentations.
4. Review and respond to architectural RFIs and Submittals during bidding and construction.

Assessment Engineering

1. In general, consists of, providing assessment engineering and preparing rate studies for special district services including potable water, wastewater, street lighting, road maintenance, storm drainage, landscape, and other services as may be provided to the various districts in Fresno County. Assessment engineering will be in accordance with Proposition 218 requirements and all other laws and regulations relating to the preparation of assessment engineer reports and rate studies.
2. The types of services shall include but are not limited to the following:

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

- a. Coordinate with Department staff to obtain all necessary information needed to provide the services requested, such as assessor’s files, copies of secured rolls, boundary maps, and budget information.
- b. Prepare assessment engineer’s and special reports which will include the listing of improvements being maintained or constructed, benefit spread methodology, and a listing of parcels being assessed and their corresponding assessment amount. These reports must meet all legal requirements and will provide continued justification for the levies, budgets for levy expenditures by expenditure type, and specific levies for each parcel.
- c. Sign and stamp all necessary engineer’s reports.
- d. Prepare cost estimate as needed for work assigned from the Department to Assessment Engineer.
- e. Provide for meetings with the Department for budgets, findings, recommendations, and development review meetings.
- f. Assist the Department throughout the Proposition 218 process.
- g. Assist the Department, when requested, in addressing property owners or residents with questions concerning charges, fees, assessment, or special taxes, and other related issues.
- h. In addition to any meetings with the Department, the assessment engineer is expected to attend public meetings and hearings to respond to any questions that may be asked concerning the proposed assessment, special tax, or fee.

Biology

In general, perform biological research, conduct field surveys, assess project impacts on biological resources, provide strategic guidance, prepare habitat/tree mapping, and prepare technical reports/memos for California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA) and regulatory clearance for transportation projects and on occasion water system and HUD projects. Services that may be required include, but are not limited to:

- a. Prepare Natural Environment Study and Biological Assessment reports and perform associated surveys/protocol surveys and habitat assessments for species that occur in Fresno County in accordance with Caltrans Standard Environmental Reference (SER). Prepare Aquatic Resources Delineation reports in accordance with U.S. Army Corps of Engineers (USACOE) guidelines and standards and other biological resource reports per United States Forest Service (USFS) or other state or Federal agency guidelines and standards.

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

- b. Prepare regulatory permit applications, including but not limited to, USACOE Nationwide Permit Pre-construction Notification and permit applications, California Department of Fish and Wildlife (CDFW) Incidental Take Permit and Notification of Lake and Streambed Alteration, State Water Resource Control Board (State Board) Application: Discharges of Dredged or Fill Material to Waters of the State, and Central Valley Flood Protection Board (CVFPB) application for encroachment.
- c. Prepare revegetation and restoration plans and perform associated monitoring and reporting to satisfy USACOE, CDFW and/or State Board requirements. (May require the services of a Landscape Architect.)
- d. Prepare species mitigation plans.
- e. Perform preconstruction surveys for plant and animal species that occur in Fresno County, including birds and bats, identify environmentally sensitive areas, and perform construction monitoring and reporting. Prepare bird and bat exclusion plans and perform bird and bat exclusion.
- f. Provide arborist services to identify tree species and assess potential project impacts on tree mortality.

Building Commissioning (LEED)

Commissioning services during Pre-Construction Phase, Construction Phase, and Post Construction Phase, in accordance with the principles of Leadership in Energy and Environmental Design (LEED), to include but not be limited to:

- a. Development of Commissioning Plan with design team and user group
- b. Regular meetings as needed with design team and contractors
- c. Submittal Review for related systems
- d. Design Review Forms
- e. Site Observation Reports
- f. Issue Logs
- g. Pre-functional Testing
- h. Start-up reports
- i. Final Commissioning report and Systems manual

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Building Plan Checking

Qualified Building Plans Checker(s) to check residential, industrial and commercial building plans and Building Inspector(s) to inspect residential, industrial, commercial, and agricultural projects.

Certified Access Specialist (CASP) Certification

Site and building accessibility assessment reports to include barrier descriptions, photos, code references, severity, and potential cost impact to remove barrier.

Civil Engineering

1. Provide designs for various road projects including road reconstruction and road widening.
2. Provide designs for various water systems projects, including water distribution systems or water treatment, irrigation, etc.
3. Provide alignment studies to compare the potential cost of alternative alignments for road widening or realignment projects.
4. Provide analysis of existing facilities or structures the demolition of which may result in hazardous waste and provide specifications for the testing, removal, and disposal thereof.
5. Provide support in preparing funding applications.
6. Civil Design, Drawings, and Specs including but not limited to: Grading plan and Site Utility Plan. Submittal and approval to appropriate agencies as required by Site Plan Review conditions of approval (City, Fire, flood control, etc.). Civil engineering consultant will also be expected to review and respond to Civil related RFIs and Submittals during Bidding and Construction.
7. Construction Quality Assurance, including in the field and plan/specification review.

Construction Management

1. Jobsite inspections/evaluations
2. Construction logs for RFIs, ASIs, Change Orders, Submittals, Pay Apps, etc.
3. Coordination of inspections and County provided trades (low voltage, FF&E, etc.) with Contractor
4. Regular meetings as needed with architect, contractor, user-group, etc.

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

5. Responsible for collecting and distributing closeout documents (as-built drawings and specs, signed off inspection cards, OMMs, Warranties, etc.)

Cost Estimating

1. Construction cost estimates for apartment complexes
2. Construction Cost estimating at Schematic, Design Development, and/or Construction Documents
3. Recommendations for value engineering

Electrical Engineering

1. Electrical Design, Construction Documents, technical specs, and Title 24 calculations. Electrical engineering consultant also will be expected to review and respond to electrical related RFIs and submittals during Bidding and Construction.
2. Preliminary evaluation of electrical system and recommendations of existing facilities.
3. Provide design of control systems for various water and wastewater treatment facilities.
4. Provide telemetry and facility communication studies.
5. Provide design of telemetry and facility communication systems using various forms of transmission.
6. Provide design and integration of Supervisory Control and Data Acquisition systems and facility operating software.
7. Provide assistance in interface setup for operating staff interaction and control.
8. Provide design of electrical supply for various water and wastewater treatment facilities.
9. Provide design of water and wastewater treatment facility electrical systems.
10. Prepare PG&E Rule 15/16 Applications.
11. Provide assistance in preparation of Rule 16 applications.

Sample Agreement Appendix B – Consultant's Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Environmental Planning Services

1. Prepare technical studies/memos and provide related support for transportation projects in accordance with Caltrans SER for the following resource/impact areas:

On occasion, similar reports may be requested for HUD, water system or County capital projects.

- Air Quality/Greenhouse Gas Emissions/Wildfire/Energy (for County Initial Studies)
- Community Impact Assessment
- Farmland
- Floodplains
- Initial Site Assessment
- Noise and Vibration
- Relocation
- Sole Source Aquifer
- Section 4(F)
- Section 6(F)
- Visual
- Water Quality/Resources

2. On occasion, prepare Initial Study, Mitigation Monitoring and Reporting Program, Caltrans Preliminary Environmental Study Form and Environmental Assessment documents for transportation projects. On occasion, prepare state or federal CEQA/NEPA documents for HUD housing related projects, water system, or County capital projects.

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Geotechnical Engineering

1. Provide geotechnical analysis services, including conducting soil sampling and classification, and soil permeability analysis
2. Provide slope stability analysis
3. Provide analysis for bridge footing and pier foundation design
4. Provide scour analysis and design scour mitigation projects
5. Provide tank foundation design
6. Provide Phase I and Phase II Environmental Assessment Reports as needed/recommended
7. Provide recommendations for footing, slab, pavement design based on geotech findings

Grant Writing Services

1. Funding Needs Analysis – Work with Department staff to assess the validity of current funding priority areas, identify changes in funding priority areas, and identify new priority areas for possible funding;
2. Grant Funding Research – Conduct research to identify grant resources including, but not limited to, Federal, State, foundation, agencies and organizations that support the Department funding needs and priorities, including, but not limited to:
 - a. Housing and housing programs
 - b. Infrastructure development and maintenance
 - c. Public safety
 - d. Technology
 - e. Parks
 - f. Multimodal transportation
 - g. Energy efficiency and sustainability
3. On-Call Grant Research – In addition to the areas defined above, other areas may also be identified through the funding needs analysis process and throughout the duration of the contract. The Scope of Work may also include researching grant opportunities identified by the Department.

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

4. Grant Proposal Development

Provide general grant proposal writing services associated with the completion of grant applications on behalf of the Department, including the preparation of funding abstracts and production, and submittal of applications to funding sources. A copy of each grant application package submitted for funding, in its entirety, shall be provided to the Department.

Proposal preparation according to the specific grant guidelines may include, is not limited to development of:

- a. Graphic maps using ArcMap 10.x and MS Office Suite.
- b. Detailed information documents referencing parcel maps, census data, and zoning/land use data.
- c. Community needs and related technical studies.
- d. Photos at potential project sites to illustrate the needs of the community.
- e. Engaging in public outreach to educate residents about the potential project and obtain feedback.

Hydraulic Engineering

1. Provide Hydrologic analysis services including research of precipitation data or historic flows for identified area, governmental/research agency contact and coordination, or other supporting analysis or research
2. Provide Hydraulic analysis services including channel flow design, scour analysis and detail design

Industrial Hygiene, Hazardous Material, Lead and Asbestos Compliance

1. Testing and abatement recommendations for lead, asbestos, and other hazardous materials
2. Air clearance testing

Land Use / Planning

1. Prepare General Plan updates, including all required elements such as transportation, circulation, parks, environmental justice and housing element. Ensure all updates adhere to current State laws and regulations. Updates to include new land use maps, zoning policies and municipal codes.

**Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services**

2. Update community specific plans, and Countywide policy recommendations. Assist with citizen participation and community outreach efforts.
3. Prepare organization assessments to streamline processes and increase efficiencies in permitting and planning processes.
4. Prepare various studies and reports including nexus, feasibility and cost effectiveness on planning related documents such as suitable sites inventory or Affirmatively Furthering Fair Housing (AFFH) report.

Landscape Architecture

1. Landscape design, drawings, and specifications, which shall include without limitation: Landscape plans, irrigation systems/plans, planting schedules, and Model Water Efficiency Landscape Ordinance (MWELO). Landscape consultant also is expected to review and respond to related RFIs and Submittals during Bidding and Construction.
2. Prepare revegetation and restoration plans to satisfy USACOE, CDFW and/or State Board requirements.

Materials Testing

Provide materials testing services, such as, but not limited to soil, pavement, water, steel

Pavement Management

Assist with review and data collection in the field for the COUNTY’s pavement management system

Plumbing and Mechanical Engineering

1. Provide Plumbing and Mechanical engineering design, drawings, specifications, and Title 24 calculations. Plumbing and Mechanical consultant will be expected to review and respond to related RFIs and Submittals during Bidding and Construction.
2. Preliminary evaluation and recommendations with regard to Plumbing and Mechanical Systems in existing facilities.

Solid Waste Engineering

Consultants must be able to perform solid waste engineering activities, including without limitation any or all of the following tasks listed below, in accordance with California Code of Regulations (CCR) Titles 14, 17, 22, 23 and 27 et.al., San Joaquin Valley Air

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Pollution Control District (SJVAPCD) Rules and Regulations, and 40 CFR 258 (subtitle D), as appropriate.

1. Structural, geological, hydrogeological, geotechnical, surveying and support services pertaining to Solid Waste (landfills). Consultants must be able to perform any or all the following in accordance with California Code of Regulations (CCR) Titles 14, 17, 22, 23 and 27 et.al., San Joaquin Valley Air Pollution Control District (SJVAOCD) Rules and Regulations, and 40. CFR 258 (subtitle D) as appropriate.
2. The preparation of Plans, Technical Specifications, and Construction Estimates pertaining to the design of:
 - a. Landfill modules and covers
 - b. Landfill Gas Collection and Control Systems (LFGCCS)
 - c. Environmental (groundwater, landfill gas) remediation systems
3. Evaluation of monitoring programs in accord with CCR 27
4. Design and implementation of monitoring programs including Evaluation Monitoring Programs (EMP) as delineated in CCR Title 27
5. Engineering Feasibility Studies (EFS) as delineated in CCR Title 27
6. Corrective Action Program (CAP) design and implementation as delineated in CCR Title 27
7. Review and provide comments or revisions as requested, or undertake the actual preparation if directed, of landfill-specific regulatory documents, including any of the following:
 - a. Joint Technical Documents (JTD)
 - b. Closure, Post-closure and Corrective Action Plans and cost estimates
 - c. Solid Waste Facility Permits
 - d. Waste Discharge Orders including aquifer exemptions
 - e. Authority to Construct
 - f. Permits to Operate
 - g. Various regulatory agency reports or responses required as a result of regulations, studies, orders or violations (e.g., CAP Evaluation Report)
8. Remediation system(s) efficacy studies

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

9. Landfill tipping fee studies and implementation

Structural Engineering

1. Provide analysis of existing structures, including bridges, box culverts and pipe culverts, and treatment plant buildings.
2. Provide reports recommending reconstruction, retrofit, or extension of existing structures.
3. Provide type selection reports to recommend structure type for replacement structures.
4. Provide design of new structures.
5. Provide design for extension or replacement of existing structures.
6. Provide design for attachment of new facilities (bridge barriers, for example) to existing structures.
7. Provide independent structural analysis of Department-prepared designs.
8. Perform life cycle cost analysis for rehabilitation of existing structures.
9. Provide bridge preventative maintenance program support.
10. Provide support in preparing funding applications.
11. Provide structural engineering design, drawings, technical specs, and calculations. Structural consultant is also expected to review and respond to related RFIs and Submittals during Bidding and Construction.
12. Provide structural evaluation, analysis, and recommendations of existing structures.

Surveying

1. Provide land records research for boundary determination of existing and proposed County properties and rights-of-way;
2. Recover existing monuments including public land survey monuments (section corners, etc.), property corners, rights-of-way monuments and benchmarks;
3. Provide retracement surveys;
4. Re-establish lost or obliterated corners;
5. Set-out and establish coordinates for horizontal and vertical project control points;

**Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services**

6. Provide planimetric and topographic site surveys for design purposes including digital terrain modeling for contour interpolation, profile, cross-section and earthwork volume calculations;
7. Complete borrow site surveys for earthwork calculations;
8. Interpret design plans to extract staking information;
9. Provide field staking – limits, frequency and offsets of stakes to be determined for each project;
10. Provide records filings including, but not limited to, Corner Records and Record-of-Survey; and
11. Identify and plot location of water, sewer and gas mains, central steam and other utilities including, but not limited to, buried tanks and septic fields.

Traffic and Transportation Engineering

1. Provide design for new traffic signals
2. Provide signal phasing design for existing traffic signals
3. Provide traffic analysis
4. Provide transportation planning
5. Analyze traffic safety
6. Analyze parking needs
7. Prepare applications for various transportation project funding programs

Utility Locating

1. Excavation to positively identify underground utilities (potholing)
2. Collection of invert levels at manholes (sewers) and catch basins (storm drains) identified by the Department
3. Collection of top nut information at valve cans identified by the Department
4. Restoration of disturbed areas to pre-existing conditions or as required by the Department

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Water Resources Operators

Provide certified water and wastewater operators for limited periods of time to be responsible for the maintenance, repair, monitoring, and record keeping necessary for water and wastewater plant equipment, operations and distribution.

Water Resources Engineering

1. Prepare hydrological analysis to determine various flows in natural channels
2. Prepare hydraulic analysis to estimate the capacity of existing and/or proposed bridge and culvert structures, and hydraulic analysis for water distribution system capacity
3. Provide design for water and wastewater treatment distribution systems
4. Provide life cycle cost analysis for rehabilitation of existing water and sewer systems
5. Provide design for water wells and community water systems
6. Provide support in preparing funding applications
7. Prepare analysis of reclaim water usage and regulations for County purposes
8. Provide recommendations regarding necessary regulations and processes for County utilized reclaim water and implementations of these processes

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

On-Call Services

Technical Reports

Applies to all disciplines

Description of Work

Prepare a detailed preliminary engineering report for the project in Department format. The report shall contain all necessary information in sufficient detail to propose the project design.

Requirements of Specified Services

1. Ascertain the requirements for Technical Reports through meetings with the PROJECT ADMINISTRATOR and a review of existing information on the PROJECT(S).
2. The CONSULTANT shall prepare and submit technical reports to the PROJECT ADMINISTRATOR for each assigned PROJECT. Technical reports shall be prepared in accordance with the appropriate format required by local, state and federal laws, regulations and guidelines.
3. When requested by the PROJECT ADMINISTRATOR, the CONSULTANT shall attend meetings with the COUNTY, federal, state and/or local representatives to discuss and review the technical report. The CONSULTANT shall prepare brief minutes of meetings attended and promptly submit the minutes to the PROJECT ADMINISTRATOR within seven (7) days.
4. The CONSULTANT shall submit each technical report to the PROJECT ADMINISTRATOR for transmittal to other appropriate agencies for their review and approval. The CONSULTANT shall revise and resubmit each technical report as necessary until approved by all appropriate agencies.
5. The CONSULTANT shall prepare and submit technical studies and estimates in the formats, quantities, and delivery methods delineated in Appendix C. The CONSULTANT shall verify compatible format and quantity prior to final delivery.

Preparation of Various Reports and Studies

Applies to all disciplines

Description of Work

1. Analyze project budget;

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

2. Review existing engineering reports from the Department as available;
3. Prepare a detailed project cost estimate, which shall identify the components and requirements of the project; and
4. Prepare a detailed report or study in Department format.

Preliminary Engineering

Applies to the following disciplines:

Architectural Design and Drafting	Civil Engineering
Electrical Engineering	Landscape Architecture
Plumbing and Mechanical Engineering	Solid Waste (Landfill)
Structural Engineering	Traffic Engineering
Water Resources	

Description of Work

1. Prepare a detailed preliminary engineering report for the project in Department format. The report shall contain all necessary information in sufficient detail to propose the project design; and
2. Prepare site plans and grading plans identifying basis of bearing, location of benchmark used and source of elevation (vertical) datum.

Prepare Design Plans, Technical Specifications and Construction Estimate

Applies to the following disciplines:

Architectural Design and Drafting	Civil Engineering
Electrical Engineering	Landscape Architecture
Plumbing and Mechanical Engineering	Solid Waste (Landfill)
Structural Engineering	Traffic Engineering
Water Resources	

General Description of Work

1. Complete fully the project designs to include comprehensive construction plans, earthwork volumes, required permits, technical specifications, cross-sections and final opinion of probable construction cost (Engineer’s Estimate) for construction.
2. Apply urban design principals that meet the needs of the individual communities.

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

3. Submit the recommended construction period for bidding purposes to the County for approval and identify materials and equipment requiring long delivery times that will control the length of the construction Agreement.

4. Prepare addenda as necessary for bid documents.

Requirements of Specified Services When Requested

The CONSULTANT shall:

1. Ascertain the requirements for the assigned PROJECT(S) through meetings with the PROJECT ADMINISTRATOR and a review of an existing schematic layout of the PROJECT(S).
2. Ascertain any requirements, unforeseen criteria, or issues for the PROJECT(S) that may be unknown to the PROJECT ADMINISTRATOR and communicate these requirements, criteria, or issues to the PROJECT ADMINISTRATOR.
3. Design the PROJECT(S) to conform to requirements of the reviewing agencies having jurisdiction over the PROJECT(S).
4. Design PROJECT(S) to include mitigation measures as required or specified in the environmental documents.
5. Monitor and keep the PROJECT ADMINISTRATOR informed regarding the impact of design issues on the PROJECT budget. Upon the written request, the CONSULTANT shall incorporate into the design, such reasonable design and operational changes as the PROJECT ADMINISTRATOR deems appropriate as a result of the COUNTY'S review processes and impact on each PROJECT budget or estimate.
6. Assist the COUNTY in determining all permits that may be required for the PROJECT and prepare all necessary permits for the COUNTY'S submittal to outside agencies.
7. Work with the PROJECT ADMINISTRATOR to ensure that the plans, specifications and estimate meet all requirements to be advertised for construction bids.
8. If required by approval agencies or PROJECT ADMINISTRATOR, submit to the COUNTY in the appropriate agency forms, the PROJECT background information and recommended testing and inspection list for materials to be used, identifying type, quantity, frequency, and schedule, for each PROJECT. Submit required numbers of sets of plans, specifications, and other documents required by approval agencies to the PROJECT ADMINISTRATOR.
9. Submit to the PROJECT ADMINISTRATOR plans, specifications and estimates for review in the formats, quantities, and delivery methods delineated in Appendix C. Prior to submission of plans, the CONSULTANT shall request from the PROJECT ADMINISTRATOR examples of acceptable drafting format and reproducible standards.

Sample Agreement Appendix B – Consultant's Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Verification of compatible format will be required prior to final file delivery. The PROJECT ADMINISTRATOR, at his/her discretion, may reject a submittal that is determined insufficient.

10. The original drawings and specifications index sheet shall be stamped by a seal with the CONSULTANT'S and subconsultant's license numbers and/or signed in accordance with the California Business and Professions Code.

Construction Observation

Applies to the following disciplines:

Architectural Design and Drafting	Building Commissioning
Certified Access Specialist (CASP) Certification	Civil Engineering
Construction Management	Construction Quality Assurance
Cost Estimating	Electrical Engineering
Geotechnical Engineering	Hydraulics
Industrial Hygiene	Land Use / Planning
Landscape Architecture	Plumbing and Mechanical Engineering
Solid Waste (Landfill)	Structural Engineering
Traffic Engineering	Water Resources

General Description of Work

1. Attend the pre-construction conference scheduled by the Department; and
2. Provide services during construction including, but not limited to:
 - a. Make recommendations to the Department on all claims of the Department or construction contractor and all other matters relating to the execution and progress of work, including interpretation of the Agreement documents
 - b. Review and make recommendations for samples, schedules, shop drawings and other submissions for general conformance with the design concept of the project and for general compliance with the plans and specifications and information given by the consultant's contract documents
 - c. Respond timely to requests from the Department and contractor for information needed from consultant in order to clarify construction plans and specification to review the contractor's estimates for all other charges
 - d. Recommend and prepare necessary change orders and associated engineer's estimate

Sample Agreement Appendix B – Consultant's Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

e. Assist the Department, at the Department's express, written authorization, with any claim resolution process involving the Department's construction contractor and the Department, including serving as a witness in connection with any legal proceedings or dispute resolution processes required by law

Requirements of Specified Services When Requested

The CONSULTANT shall:

1. When requested by the PROJECT ADMINISTRATOR, attend meetings with the COUNTY, and/or any federal, state and/or local representatives. The CONSULTANT shall prepare brief minutes of all meetings attended and promptly submit those minutes to the PROJECT ADMINISTRATOR within seven (7) calendar days.

2. Make recommendations to the COUNTY on all claims of the COUNTY or the construction contractor and all other matters relating to the execution and progress of work, including interpretation of the contract documents for the PROJECT.

3. Within seven (7) calendar days of the COUNTY'S request, review and make recommendations for samples, schedules, shop drawings, and other submissions for general conformance with the design concept of the PROJECT(S) and for general compliance with the plans and specifications and information provided by the contract documents for the PROJECT.

4. Within two (2) working days, respond to requests from the PROJECT ADMINISTRATOR for information needed from the CONSULTANT in order to clarify construction plans and specifications and to review the construction contractor's cost estimates for all change orders.

5. Recommend and assist in the preparation of such change orders as deemed necessary with supporting documentation, calculations and estimate, for review and issuance of change orders by the COUNTY Construction Engineer to obtain appropriate agency acceptance and approval.

6. At intervals appropriate to the stage of construction, or as otherwise deemed necessary by the CONSULTANT, visit the site of the PROJECT(S) as necessary to become familiar generally with the progress and quality of the work and to determine whether the work is proceeding in general accordance with the contract documents. The CONSULTANT shall not be required to make exhaustive or continuous onsite inspections but shall give direction to the Construction Inspector as hereinafter more specifically provided. The CONSULTANT shall not be responsible for the construction contractor's failure to carry out the construction work in accordance with the contract documents. However, the CONSULTANT shall immediately advise the PROJECT ADMINISTRATOR of any known or observed deviation from the contract documents.

Sample Agreement Appendix B – Consultant's Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

7. Not have control over or charge of, and shall not be responsible for construction means, methods, techniques, sequence, or procedure, or for the safety precautions, programs, or equipment in use in connection with the work, since these are solely the construction contractor's responsibility under the contract for construction.

8. 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 shall be sufficiently detailed for PROJECT ADMINISTRATOR to determine if the CONSULTANT is performing to expectations or is on schedule, to provide communication of interim findings, and so sufficiently address any difficulties or special problems encountered so remedies can be developed.

9. Advise the PROJECT ADMINISTRATOR of defects and deficiencies observed in the work of the construction contractor and may recommend that the DIRECTOR reject work as failing to conform to the contract documents.

10. Conduct site visits and field observations to facilitate recommendations by the CONSULTANT regarding:

- a. dates of substantial completion
- b. dates of final completion
- c. the DIRECTOR'S acceptance of the work
- d. the DIRECTOR'S filing of the Notice of Completion and Issuance of Final Certificate for payment
- e. other issues which may require site visits

11. Control of Construction Project Site

The COUNTY agrees that in accordance with generally accepted practices, the COUNTY'S construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction projects; including safety of all persons and property, and that this requirement shall be made to apply continuously during projects and not be limited to normal working hours. The CONSULTANT shall not have control over or charge of, and shall not be responsible for, project means, methods, techniques, sequences or procedures, as these are solely the responsibility of the construction contractor. The CONSULTANT shall not have the authority to stop or reject the work of the construction contractor.

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Building Plan Checking

Applies to the Building Plan Checking discipline.

General Description of Work

1. Residential and non-residential plan checking services and inspection services, including but not limited to, review of plans and documents and inspection of construction for compliance with the California Code of Regulations, Title 24, County of Fresno Ordinance Code Title 15 (California Building, Fire, Mechanical, Plumbing, and Electrical Codes, et.al.), and Disabled Access Requirements. Structural Plan Review will include all structural and building components. Non-Structural Plan Review will include all electrical, plumbing, mechanical, green and energy components. Types of plan reviews may include:

- commercial plans
- non-structural commercial plans
- structural commercial plans

2. Minimum Qualifications or equivalent as determined by the County of Fresno are required:

- International Code Council (ICC) Certified Plans Examiner
- Licensed professional engineer
- Certified Access Specialist (CASp)
- ICC Certified Building Inspector combinations
- ICC Certified Building Permit Technician
- Current valid State of California driver's license

Requirements of Specified Services When Requested

1. Availability

a. Prior approval by the County is required for any and all charges proposed for deferred submittals and revisions that may occur on projects reviewed by the Consultant.

b. The response time for the Consultant to return a list of comments to the County or provide approval to the County for all plan review projects from the day of authorization by the County is ten (10) business days on the first review and five (5)

Sample Agreement Appendix B – Consultant's Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

business days on subsequent reviews. If the list of comments or approval is returned to the County in one (1) to five (5) business days in excess of the due date, a 10% reduction in cost to the County shall be provided. If the response time of five (5) to ten (10) business days is in excess of the due date, the plan review shall be completed at 50% reduction to the County. Anything in excess of 10 days shall be completed at no cost to the County. The Consultant shall notify the County at least two (2) business days in advance if the plans will not be completed within the stipulated time frame. The response time for more complex projects as determined by the County may be negotiable.

c. Meetings may occur prior to permit submittal, during the review process and after permit issuance and typically will not exceed two hours for each meeting.

d. Consultant's representative may be requested to attend bi-monthly plan review and/or inspection related meetings at the County at no additional cost to the County. Estimate meeting duration of two hours.

2. Fees

a. No additional fees shall be charged to the County for completion of the work in any of the packages listed, (other than approved hourly fees, where applicable), including, but not limited to, pick up, delivery, mileage, shipping, meetings, phone calls, and other materials, labor and handling.

b. Prior approval by the County is required for any and all charges proposed for deferred submittals and revisions that may occur on projects reviewed by the Consultant.

3. Plan Review Services:

a. Consultant shall assign personnel who are professionally qualified to perform commercial and/or residential construction document plan check and shall be International Code Council (ICC) certified plans examiners.

b. Consultant shall designate one individual as the responsible contact for all communications between the County and Consultant for the life of the contract and, in the event the contact changes, notify County immediately.

c. Consultant shall furnish assigned personnel with all necessary materials, resources and training to conduct plan review and inspection services, including a current copy of applicable County amendments, policies, procedures and forms.

d. Plan review approval shall not be recommended to the County until ALL code compliance issues are resolved to the best of Consultant's knowledge and all permit issuance requirements of the County of Fresno are satisfied. Consultant shall contact County if there are questions.

Sample Agreement Appendix B – Consultant's Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

e. Consultant shall respond within one business day upon each notification that a plan check is authorized.

f. Consultant shall pick up all documents to be reviewed from the County of Fresno, Public Works and Planning, Development Services Division located at 2220 Tulare Street, Suite A, Fresno, CA. Stated plan review turnaround times will begin the next business day after the Consultant has been notified by the County. Consultant shall conduct each plan review in a timely manner and within time-frame guidelines established by the County. Refer to 1. Availability b. Upon completion of each plan review, the Consultant shall return the reviewed documents to the County and provide an electronic and hard copy of the plan review comments in the format designated by the County. Upon completion of the plan review where approval of the documents is recommended, the Consultant shall provide (2) complete sets of all final review documents annotated as approved to the County of Fresno.

g. Plan review comment letters shall be completed in the format provided by the County.

h. Code interpretations are subject to final review and approval by the County Building Official. All plan review comments completed by the consultant are subject to the review by the County.

i. Consultant shall be available within one business day to respond to questions from the County that may be generated during field inspection for each authorized plan check that is subsequently issued a permit for construction.

4. Field Inspection Services:

a. All field inspection shall be performed through the County of Fresno Development Services Division and under the direction of County staff.

b. Consultant shall assign personnel who are professionally qualified to perform commercial and/or residential construction inspection and shall be ICC certified as building inspectors. All vehicles, safety apparel, communication devices, materials, resources, tools, and training shall be supplied by the Consultant.

c. County shall provide County-specific policy training and provide any necessary County maps, forms, and data entry training.

d. List a "typical" notification time required for the Consultant to provide inspection staff for the County.

e. Projects under construction by permit from the County shall be inspected for compliance per the California Code of Regulations - Title 24, Parts 1-12, and Fresno County Title 15 (Building and Construction Ordinance).

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Staff Augmentation On-Call Services

All Staff Augmentation Services

Applies to all disciplines

Requirements of Specified Services

The Department’s Project Administrator may interview the Consultant’s personnel to confirm the requisite qualifications and experience for the Project or Task Order services. The decision of the Department’s Project Administrator to select the Consultant’s personnel shall be binding upon the Consultant and its Subconsultants. The Consultant shall provide adequate qualified personnel to be interviewed by the Department’s Project Administrator within one (1) week of receiving the request.

The Department’s Project Administrator shall evaluate the adequacy (quality and quantity) of the work performed by the Consultant’s personnel and determine whether the deliverables satisfy the acceptance tests and criteria. Any Consultant personnel may be rejected if it is determined that they lack the minimum qualifications. If at any time the level of performance is below expectations, the Department’s Project Administrator may direct the Consultant to immediately remove Consultant personnel from the project specified in a Task Order and request that another qualified person be assigned as needed. The substitute personnel shall meet the qualifications required by this Agreement for performance of the work as demonstrated by a resume and copies of current certifications submitted by the Consultant. Substitute personnel shall receive prior written approval from Department’s Project Administrator. Invoices with charges for personnel not pre-approved by the Department’s Project Administrator for work on the Agreement and for each Task Order shall not be reimbursed.

The Consultant shall not remove or replace any existing personnel assigned to Task Orders without the prior written consent of the Department’s Project Administrator. The removal or replacement of personnel without the written approval from the Department’s Project Administrator shall be violation of the Agreement and may result in termination of the Agreement.

When assigned consultant personnel is on approved leave and required by the Department’s Project Administrator, the Consultant Project Manager shall provide a substitute employee until the assigned employee returns to work from the approved leave. The substitute personnel shall have the same job classification, as set forth herein or in the Consultant’s Cost Proposal, not exceed the billing rate and meet or exceed the qualifications and experience level of the previously assigned personnel, at no additional cost to the Department. Substitute personnel shall receive prior written approval from the Department’s Contract Administrator to work on this Agreement.

The Consultant is responsible to provide fully trained personnel to efficiently perform the work. The Consultant’s personnel may be asked to attend certain special training if

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

recommended by the Department’s Project Administrator. On such occasions, with the approval of the Department’s Project Administrator, the Department shall compensate the Consultant for the Consultant’s actual cost for time spent in training only. All other costs, fees, and expenses associated with the training, including any transportation costs and training fees, shall be the Consultant’s responsibility. In addition, services to train the Department’s personnel shall not be provided by the Consultant under this Agreement.

In location(s) where the Consultant personnel is expected to work for extended period(s) of time, the Consultant shall either relocate the personnel or make every effort to hire local persons.

In addition to other specified responsibilities, the Consultant Contract Manager shall be responsible for all matters related to the Consultant’s personnel, Subconsultants, and Consultant’s and Sub-Consultants’ operations including, but not limited to, the following:

1. Ensuring that deliverables are clearly defined, and that criteria are specific, measurable, attainable, realistic and time-bound; and that the deliverables satisfy the criteria.
2. Supervising, reviewing, monitoring, training, and directing the Consultant’s and Subconsultants’ personnel.
3. Managing Subconsultants.
4. Assigning qualified personnel to complete the required Task Order work as specified on an “as-needed” basis in coordination with the Department’s Contract Administrator.
5. Administering personnel actions for Consultant personnel and ensuring appropriate actions taken for Subconsultant personnel.
6. Maintaining and submitting organized project files for record tracking and auditing.
7. Developing, organizing, facilitating, and attending scheduled coordination meetings, and preparation and distribution of meeting minutes.
8. Implementing and maintaining quality control procedures to manage conflicts, ensure product accuracy, and identify critical reviews and milestones.
9. Assuring that all applicable safety measures are in place.
10. Providing invoices in a timely manner and providing monthly Agreement expenditures.
11. Reviewing invoices for accuracy and completion before billing to the Department.
12. Managing overall budget for Agreement and provide report to the Department’s Contract Administrator.
13. Ensuring compliance with the provisions in this Agreement and all specific Task Order requirements.
14. Monitor the health and safety of personnel working in a hazardous environment in accordance with all applicable Federal, State, and Local regulations.
15. Knowledge, experience, and familiarity with prevailing wage issues and requirements in State of California if applicable.

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Project Design

Applies to the following disciplines:

Architectural Design and Drafting	Civil Engineering
Electrical Engineering	Landscape Architecture
Plumbing and Mechanical Engineering	Solid Waste (Landfill)
Structural Engineering	Traffic Engineering
Water Resources	

Description of Work

Provide complete designs and produce biddable plan sets and accompanying specifications for various projects using Civil 3D software, AutoCAD, Revit, as requested or approved by the County. All designs should apply urban design principles that meet the needs of the individual communities. The projects include:

1. Road reconstruction projects
2. Congestion mitigation air quality shoulder improvement projects
3. Hot mix asphalt overlay projects
4. Road projects employing in-situ reclamation processes
5. Bituminous seal coats and slurry seals
6. Bridge rehabilitation
7. Bridge replacement
8. Bridge scour mitigation
9. Water system projects
10. Wastewater system projects
11. Landfill Projects
12. Interior Tenant Improvements
13. New buildings

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Construction Management

Applies to the Construction Management discipline:

Description of Work

Provide construction management services for any category of projects as requested. Project construction management services may be provided in conjunction with the projects under design by COUNTY staff, by the CONSULTANT’S staff pursuant to this AGREEMENT, or by various consultants retained by the COUNTY. Project Management includes, without limitation, all of the following:

1. Scheduling and programming – preparing and updating project schedules
2. Review of designer’s work product for constructability
3. Review of utility relocations plans
4. Review of designer’s work product for conformance with design standards
5. Review of contractor’s work product for conformance with design standards and field conditions
6. Coordination with utility companies
7. Coordination with irrigation districts
8. Coordination with environmental and permitting agencies
9. Coordination with reviewers
10. Monitoring and maintaining required DBE involvement.

Engineering Support

Applies to all disciplines

Description of Work

1. Provide technical data for the preparation of various funding paperwork
2. Provide technical data for the preparation of various permit applications
3. Provide technical data for the preparation of cooperative agreements
4. Provide technical data for the preparation of utility agreements

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

5. Prepare and stamp legal descriptions for the acquisition of right of way
6. Conduct meetings with property owners regarding projects
7. Review of existing designs for compliance with development plans
8. Provide presentation materials for the Board of Supervisors to be presented by COUNTY staff
9. Prepare various tables, maps, charts and diagrams
10. Provide technical support for request for proposal processes
11. Serve as a plan checker and independent quantity checker

Materials Testing

Applies to the Materials Testing discipline:

Additional Requirements of Specified Services When Requested

1. Ensuring that deliverables are acceptance tested that the deliverables satisfy the acceptance tests.
2. Provide knowledge, experience, and familiarity Quality Control and Quality Assurance (QC/QA) for California Test Methods and laboratory.
3. Experience in the review of the test reports within a reasonable time frame of the completion of the tests to avoid delay of the field construction operation.

Pavement Condition Index Field Reviews

Applies to the Pavement Management discipline:

Description of Work

Assist with review and data collection in the field for the COUNTY’s pavement management system.

Permit Technicians

Applies to the Permit Technicians discipline.

Sample Agreement Appendix B – Consultant’s Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

General Description of Work

Technical support, customer services, and clerical work supporting the issuance and coordination of the building inspection and construction and development permits process.

Technical support and clerical assistance for; plan submittal intake, County staff coordination and processing for third-party review, return to County office, and comments distributed with in-house Zoning review comments to applicant.

Traffic and Transportation Planning

Applies to the Traffic and Transportation Engineering discipline:

Description of Work

Transportation Planning

1. Review and comment on traffic impact studies
2. Determine appropriate mitigation for the construction of new development
3. Attend meetings with developer representative to discuss traffic impact studies
4. Attend Planning Commission and Board of Supervisors meetings to represent the Department regarding traffic impact studies and mitigation

Traffic Survey Requests

Address traffic survey requests, which would involve performing fieldwork and associated analysis and providing recommendations. Traffic survey requests are concerns noted by the public or by other entities in which the COUNTY investigates traffic control devices and traffic conditions at identified locations to determine if remedial action is warranted to address a particular issue.

Traffic Census

Perform traffic counts at various locations

Sample Agreement Appendix B – Consultant's Scope of Services
On-Call Architectural and Engineering Consultant and Related Services

Water Resource Operators

Applies to the Water Resource Operators discipline:

Description of Work

Provide certified water and wastewater operators for limited periods of time to be responsible for the maintenance, repair, monitoring, and record keeping necessary for water and wastewater plant equipment, operations and distribution.

Deliverables – Appendix D

Prior to submissions, the CONSULTANT shall request from the PROJECT ADMINISTRATOR examples of acceptable drafting format and reproducible standards. Verification of compatible format will be required prior to final file delivery.

A. Technical Report Standard Submittal Formats:

1. Standard submittal formats:

- a. Electronic copy sent via email:**
 - i. Microsoft Word (.docx) formatted for printing on 8 1/2" by 11" pages
 - ii. Microsoft Excel (.xlsx) formatted for printing on 8 1/2" by 11" or 11" by 17" pages
 - iii. Adobe (.pdf) formatted for printing on 8 1/2" by 11" or 11" by 17" pages
 - iv. AutoCAD Civil 3D, as .DXF or .DWG files
 - v. Other mutually agreed upon format. Hardcopies upon request.

2. Technical studies and estimates:

- a. Electronic copy sent via email:**
 - i. Microsoft Word (.docx)
 - ii. Microsoft Excel (.xlsx)
 - iii. Signed Final Version in Adobe (.pdf)
 - iv. Other mutually agreed upon format. Hardcopies upon request.

3. Drawings:

- a. Electronic copy sent via email:**
 - i. AutoCAD Civil 3D as .DXF or .DWG files
 - ii. Hardcopies upon request.

B. Design Plans, Technical Specifications and Construction Estimate:

1. 30%, 60% and 90% plans, specifications and estimates for review
 - a. Progress prints and final originals of the plans, specifications, and estimates.
 - b. Standard submittal format
 - c. Hardcopies on 22" X 34" pages (up to 10 copies) upon request.
2. Accepted Final original plans, specifications and estimates shall include
 - a. Hardcopies
 - i. Plan Set: One (1) original reproducible plan set on 22" by 34" sheets of 4 mil thick double matte film.

- ii. Cross Sections: One (1) reproducible copy of cross sections on 22" by 34" sheets of 4 mil thick double matte film.
- iii. Final Specifications and Engineer's Estimates: One (1) stamped and wet signed paper copy on 8 1/2" by 11" pages.

b. Electronic copy sent via email

- i. Final plans, cross sections and slope stake information, design calculations, quantity calculations, and other design information as applicable to the PROJECT.
- ii. Final specifications and estimates
- iii. Plan sheets, cross sections, earthwork calculations and slope stake information shall be in:
 - AutoCAD Civil 3D
- iv. Specifications shall be in:
 - Microsoft Word (.docx) formatted for printing on 8 1/2" by 11" pages
- v. Final engineer's estimates shall be in:
 - Microsoft Excel (.xlsx)

C. County-provided preliminary engineering survey data on existing structures and topographic mapping shall be in:

- a. AutoCAD Civil 3D
- b. Or other mutually agreed upon format

**BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA**

In the matter of)
Amendment of Standard Conflict of)
Interest Code for All County)
Departments)

Whereas, the Political Reform Act, Government Code section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes; and

Whereas, the Fair Political Practices Commission has adopted a regulation, Title 2, California Code of Regulations, section 18730, which contains the terms of a standard conflict of interest code, and which may be amended by the Fair Political Practices Commission after public notices and hearings to conform to amendments to the Political Reform Act; and

Whereas, any local agency may incorporate this standard conflict of interest code, and thereafter need not amend its code to conform to future amendments to the Political Reform Act or its regulations; and

Whereas, the Board of Supervisors may adopt the standard conflict of interest code on behalf of all County departments.

Now therefore be it resolved, that the terms of Title 2, California Code of Regulations, section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and, along with the Exhibits A and B approved previously, today, or in the future, by this Board for each County department, in which officers and employees are designated and disclosure categories are set forth, constitute the conflict of interest codes of each County department.

1 Conflict of interest forms shall be filed as follows:

2 1. As required by Government Code section 87500, subdivision (e), the County
3 Administrative Officer, District Attorney, County Counsel, and Auditor-Controller/Treasurer-
4 Tax Collector shall file one original of their statements with the County Clerk, who shall make
5 and retain a copy and forward the original to the Fair Political Practices Commission, which
6 shall be the filing officer.

7 2. As required by Government Code section 87500, subdivision (j), all other
8 department heads shall file one original of their statements with their departments. The filing
9 officer of each department shall make and retain a copy and forward the original to the Clerk
10 to the Board of Supervisors, who shall be the filing officer.

11 3. All other designated employees shall file one original of their statements
12 with their departments.

13 Adopted at a regular meeting of the Board of Supervisors, held on the 2nd day of
14 October, 2007, by the following vote, to wit:

15 Ayes: Supervisors Larson, Perea, Anderson, Case and Waterston

16 Noes: None

17 Absent: None

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Chairman, Board of Supervisors

Attest:

25 Clerk

EXHIBIT "A"

PUBLIC WORKS AND PLANNING

<u>Classification</u>	<u>Category</u>
Accountant I / II	2
Architect	1
Assistant Director of Public Works & Planning	1
Assistant Real Property Agent	1
Associate Real Property Agent	1
Building Inspector I / II	1
Building Plans Engineer	1
Business Systems Analyst I / II / III	2
Chief Building Inspector	1
Chief of Field Surveys	1
Consultant	*
Deputy Director of Public Works	1
Development Services & Capital Projects Manager	1
Director of Public Works and Planning	1
Disposal Site Supervisor	2
Engineer I / II / III	1
Field Survey Supervisor	3
Financial Analyst I / II / III	1
Housing Rehabilitation Specialist I / II	1
Information Technology Analyst I / II / III / IV	2
Landfill Operations Manager	1
Planner I / II / III	1
Principal Accountant	1
Principal Planner	1
Principal Staff Analyst	1
Public Works and Planning Business Manager	1
Public Works and Planning Information Technology Manager	2
Public Works Division Engineer	1
Resources Division Manager	1
Right-of-Way Agent II / III	1
Road Maintenance & Operations Division Manager	1
Road Maintenance Supervisor	1
Road Superintendent	1
Senior Accountant	2
Senior Engineer	1
Senior Engineering Technician	2
Senior Information Technology Analyst	2
Senior Planner	1

<u>Classification</u>	<u>Category</u>
Senior Business Systems Analyst	2
Senior Staff Analyst	1
Staff Analyst I / II / III	1
Supervising Accountant	1
Supervising Building Inspector	1
Supervising Engineer	1
Supervising Water/Wastewater Specialist	1
Systems and Procedures Manager	2
Traffic Maintenance Supervisor	2
Water & Natural Resources Manager	1

- * Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Director of Public Works and Planning may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Director of Public Works and Planning's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

EXHIBIT "B"

PUBLIC WORKS AND PLANNING

1. Persons in this category shall disclose all reportable investments, interests in real property, sources of income (including gifts), and business positions. Financial interests (other than gifts) are reportable only if located within or subject to the jurisdiction of Fresno County, or if the business entity is doing business or planning to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the filing of the statement. Real property shall be deemed to be within the jurisdiction of the County if the property or any part of it is located within or not more than two miles outside the boundaries of the County (including its incorporated cities) or within two miles of any land owned or used by the County.
2. Persons in this category shall disclose all reportable investments in, income from (including gifts), and business positions with any business entity which, within the last two years, has contracted or in the future foreseeably may contract with Fresno County through its Public Works and Planning Department, Solid Waste Commissions within the jurisdiction, or to any other joint powers agency which Fresno County is a member to provide services, supplies, materials, machinery, or equipment to the County.
3. Persons in this category shall disclose all interests in real property within the jurisdiction of Fresno County. Real Property shall be deemed to be within the jurisdiction if the property or any part of it is located within or not more than two miles outside the boundaries of Fresno County (including its incorporated cities) or within two miles of any land owned or used by the County.