

**Ghirardelli Associates, Inc.**

**Construction Support Services for the  
Green Valley Road at Weber Creek – Bridge Replacement**

**AGREEMENT FOR SERVICES #381-S1511**

**THIS AGREEMENT**, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Ghirardelli Associates, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 2055 Gateway Place, Suite 410, San Jose, California 95131, and whose local office address is 770 L Street, Suite 950, Sacramento, California 95814 (hereinafter referred to as "Consultant");

**R E C I T A L S**

**WHEREAS**, County has determined that it is necessary to obtain a consultant to assist its Community Development Agency, with construction support services for the Green Valley Road at Weber Creek Bridge Replacement Project;

**WHEREAS**, Consultant has represented to County that it is specially trained, experienced, expert, and competent to perform the special services required hereunder, and County has determined to rely upon such representations;

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws and ordinances applicable to the work, including compliance with prevailing wage rates and their payment in accordance with California Labor Code, Section 1775;

**WHEREAS**, County has determined that the provision of such services provided by Consultant are in the public's best interest, and authorized by El Dorado County Charter, Section 210(b)(6) and/or Government Code Section 31000;

**NOW, THEREFORE**, County and Consultant mutually agree as follows:

**ARTICLE I**

**Scope of Services:**

- A. Consultant's services are to be provided specifically in support of the Green Valley Road at Weber Creek Bridge Replacement Project (hereinafter referred to as "Project").
- B. Consultant shall perform all professional and technical services, work and tasks required to accomplish the objectives set forth herein, and shall provide and make available Consultant's own personnel, subconsultants, if any, materials, equipment, and vehicles necessary to provide construction support and associated services. Services shall include, but not be limited to, those tasks as

identified in Exhibit A, marked "Scope of Work," incorporated herein and made by reference a part hereof, or as identified in the individual Task Orders, as applicable, to be issued in accordance with this Agreement.

Unless otherwise indicated below, and notwithstanding any other provision of this Agreement to the contrary, deliverables for the specific Items of Work to be provided under Exhibit A shall be as specified therein, shall be prepared using the software described in Section E of this Article and shall be submitted in accordance with the timeframes and formats specified in Exhibit A. Adjustments to the completion times specified in Exhibit A may only be made in accordance with the written approval (may consist of an email) of County's Contract Administrator or designee.

County's Contract Administrator will issue Consultant a single written Notice to Proceed for Items of Work A, B, and C identified in Exhibit A and Consultant shall not commence work on any Item of Work until receiving the Notice to Proceed. No payment will be made for any work performed prior to the date specified in the Notice to Proceed.

- C. In addition to the specific services identified in Exhibit A, this Agreement may also include Optional Tasks, as subsequently identified during the course of work under this Agreement by County's Contract Administrator, related to the Scope of Work as identified as Optional Tasks in Exhibit A. Such Optional Tasks may supplement, expand or otherwise modify the Scope of Work or may include, but not be limited to, tasks that are deemed critical by County's Contract Administrator to the furtherance of the Project.

The specific services for each Optional Task assignment shall be determined at a meeting or telephone conference between Consultant and County's Contract Administrator, or designee, to discuss the needs, applicable standards, required deliverables, specific Consultant staff, subconsultants, if applicable, and any necessary permits on a task-by-task basis. Following the meeting, Consultant shall provide County's Contract Administrator with a written scope of work, a schedule including a list of tasks with completion dates, a target completion date for the overall scope of work, and a not-to-exceed cost itemization to complete the work (resulting in a Task Order), which shall require written approval, authorization, and written notification to proceed from County's Contract Administrator, prior to commencement of the work.

Consultant shall provide County's Contract Administrator with the names and titles of Consultant's representatives that are authorized to bind Consultant by signing Task Orders and Task Order Amendments on Consultant's behalf. Consultant's notification of individuals authorized to execute Task Orders and Task Order Amendments on Consultant's behalf shall be communicated to County in accordance with the provisions of ARTICLE XIX, Notice to Parties, of this Agreement.

The period of performance shall be in accordance with the dates specified in the Notice to Proceed or Task Order. No payment will be made for any work performed before or after the period of performance in the Notice to Proceed or Task Order, unless County's Contract Administrator and Consultant amend the Notice to Proceed or Task Order. No Notice to Proceed or Task Order will be written which extends beyond the expiration date of this Agreement, nor the cumulative total of the not-to-exceed Agreement Amount.

- D. County shall review Consultant's progress at key points as specified in the Scope of Work for the Project and in each Task Order issued for Optional Tasks, if any. Milestone reviews shall be performed for the specific products and deliverables listed in the Scope of Work and in each Task Order, as applicable. Milestones may only be changed by written agreement (may consist of an email) between County's Contract Administrator, or designee, and Consultant.
- E. If a submittal or Task Order deliverable is required to be an electronic file, Consultant shall produce the file using Microsoft (MS) Office 2010 applications (specifically, MS Word, MS Project and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). All digital photographs shall be submitted on CD-ROMs in jpeg format with a minimum resolution of 2816 X 2112. All deliverables shall be submitted in language, format and design that are compatible with and completely transferable to County's computer and engineering applications and that are acceptable to County's Contract Administrator. Newer versions of software may be used and other types of software used for analytical purposes may be authorized if approved in advance of the submittal by County's Contract Administrator.
- F. Consultant shall submit all deliverables to County's Contract Administrator, or designee, in accordance with completion time schedules identified in Exhibit A or in the individual Task Orders that may be issued pursuant to this Agreement for Optional Tasks. County's review of deliverables will ensure that Consultant's work meets a level of acceptability as determined by the Contract Administrator, and Consultant shall be required to modify its work as necessary to meet that level of acceptability as defined by the Contract Administrator. Failure to submit the required deliverables in the formats required shall be grounds for termination of the Agreement, as provided in ARTICLE XVIII, Default, Termination, and Cancellation, herein.
- G. Consultant's responsibilities for compliance with DBE requirements are described in ARTICLE XLI, Disadvantaged Business Enterprise (DBE) Considerations, and in ARTICLE XLII, DBE Participation, herein.

All of the services included in this Article and Exhibit A, Scope of Work, hereto, are the responsibility of Consultant, unless specifically described as a task or item of work to be provided by County. Consultant shall be responsible for the supervision, administration and work performed by any subconsultant, if any, for services rendered under this Agreement.

## **ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire upon the later of County's recordation of the Notice of Acceptance for the Project or the resolution of all construction claims, if any, associated with the Project.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, including all of the deliverables described in Exhibit A, Scope of Work, and in the individual Task Orders issued, if applicable, pursuant to this Agreement, and including all of the forms and reports required under the DBE provisions of this Agreement; and including the progress reports required in ARTICLE VII, Progress Reports, below, County agrees to pay Consultant monthly in arrears. Payment shall be made within thirty (30) days following County's receipt and approval of itemized invoices detailing services rendered.

For the purposes hereof, the billing rates shall be in accordance with Exhibit B, marked "Rate Schedule," incorporated herein and made by reference a part hereof. The billing rates specified in the Agreement and Task Orders, if applicable, shall include direct salary cost, employee benefits, overhead and fee, as applicable. The hourly rates listed on the Rate Schedule shall not be adjusted for the performance period set forth in this Agreement.

Other direct costs including special reproductions, delivery charges, and other outside services authorized herein, shall be invoiced at Consultant's cost without markup, for the services rendered. Any invoices that include other direct costs shall be accompanied by backup documentation to substantiate Consultant's costs for the services being billed on those invoices.

Reimbursement for mileage expenses for subconsultants, if applicable, shall not exceed the lesser of (1) the rates to be paid to County employees under the current Board of Supervisors Travel Policy at the time the mileage expenses are incurred; or (2) the rates authorized to be paid to rank and file state employees under the then current State of California Department of Personnel Administration (DPA) rules. References to the DPA rates and Consultant's responsibilities for cost differences and any overpayments are more fully described in ARTICLE XXXII, Cost Principles, herein. Mileage reimbursement rates apply to any subconsultants authorized under this Agreement. There shall be no markups allowed on mileage rates for subconsultant. Any reimbursements for mileage expenses will only be made if such expenses are included under the Other Direct Costs in Exhibit C, marked "Cost Proposal," incorporated herein and made by reference a part hereof or in the budget of an approved and fully executed Task Order issued pursuant to this Agreement.

Travel costs (i.e., overnight lodging, meals, parking, airfare, bridge tolls and other per diem expenses) will not be reimbursed as a direct cost for any services performed under this Agreement by Consultant or by any authorized subconsultants.

For the purposes of budgeting the items of work identified in Exhibit A, Scope of Work, the maximum allowable billing amounts for each item of work are described in Exhibit C.

The amounts indicated in Exhibit C represent the composition of the total not-to-exceed budget for the various tasks. In the performance of the scope of services to be provided under this Agreement, Consultant may request to reallocate the expenses listed in Exhibit C among the various Scope of Work tasks and items of work, Other Direct Costs, and Optional Tasks identified therein (not including subconsultants, if any), subject to County's Contract Administrator's written approval. In no event shall the total not-to-exceed amount of the Agreement be exceeded

The total amount of this Agreement, including all of the services detailed in Exhibit A, including the Optional Tasks, if any, which may be assigned, and inclusive of all work of subconsultants, if any, and expenses shall not exceed \$600,000.00. It is understood and agreed that there is no guarantee that this amount will be authorized under this Agreement through Task Orders.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number, the County-supplied Task Order number, if applicable, the Work Breakdown Structure (WBS) Activity Identification Codes (Activity IDs) applicable for each item of work and shall include the beginning and ending dates of the overall period of service for the invoice on their faces. Consultant shall bill County for only one (1) Task Order per invoice. Consultant shall prepare and submit a fully executed "Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" form with its final invoice. Twenty-five percent (25%) of the value of the final invoice shall be withheld until County's receipt and approval of the required DBE form. Consultant's responsibilities for compliance with DBE requirements are described in ARTICLE XLI, Disadvantaged Business Enterprise (DBE) Considerations, and in ARTICLE XLII, DBE Participation, herein.

In accordance with ARTICLE XVI, Prevailing Wage, Consultant shall provide County's Contract Administrator with certified payroll for applicable personnel for the period for which payment is requested and such certified payroll shall accompany each invoice submitted. The certified payroll shall contain information related only to the applicable Project. No invoice shall be paid until the certified payroll is submitted.

Consultant shall attach copies of any progress reports required under the provisions of ARTICLE VII, Progress Reports, herein, that relate to the services being billed to every invoice submitted for payment under the terms of this Agreement. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado  
Community Development Agency  
Transportation Division  
2850 Fairlane Court  
Placerville, California 95667  
Attn.: Shanann Findley  
Administrative Technician

or to such other location as County directs.

In the event that Consultant fails to deliver, in the format specified, the deliverables and progress reports required by this Agreement, County at its sole option may delay the monthly payment for the period of time of the delay, cease all payments until such time as the required deliverables or progress reports are received, or proceed as set forth below in ARTICLE XVIII, Default, Termination, and Cancellation, herein.

#### **ARTICLE IV**

**Taxes:** Consultant certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Consultant to County. Consultant agrees that it shall not default on any obligations to County during the term of this Agreement.

#### **ARTICLE V**

**Standards for Work:** Services rendered under this Agreement shall be performed in accordance with the guidelines set forth in the current edition of the *Caltrans Construction Manual*, *Caltrans Bridge Construction Records and Procedures (BCRP) Manual*, *Caltrans Materials Testing Manual*, *Caltrans Local Assistance Procedures Manual*, *Caltrans Source Inspection Quality Management Plan Outline*, the El Dorado County Community Development Agency's Quality Assurance Program, ASTM testing procedures, and all other applicable Caltrans, Federal Highway Administration (FHWA), federal, state and local laws, County guidelines and accepted industry standards, and shall be performed in a safe, professional, skillful and workmanlike manner in accordance with good engineering practices. Where applicable, services shall further conform to all U.S. Code of Federal Regulation Title 23 requirements and all applicable federal laws, regulations and policy and procedural or instructional memoranda.

Material testing and Quality Control/Assurance shall conform to the current edition of the *Caltrans Construction Manual*, *the Caltrans Construction Manual Supplement for Local Agency Resident Engineers*, *the Caltrans Local Agency Structural Representative Guidelines* and Caltrans' California Test Methods and shall be performed by a material-tester certified by the State.

All of Consultant's services and deliverables must adhere to current County, Caltrans and federal requirements for project development and shall be made available to County and to Caltrans for review and approval at the appropriate stages specified in Exhibit A or in the Task Orders issued for Optional Tasks pursuant to the Agreement or upon request by County's Contract Administrator.

Consultant has full responsibility for the accuracy and completeness of the deliverables, reports and such other documents that may be required for the tasks or items of work assigned. Assistance, cooperation and oversight by County, Caltrans, FHWA or other regulatory agencies will not relieve Consultant of this professional responsibility. All work must be performed and work products prepared in a format and manner customarily anticipated by the appropriate approving agencies.

#### **ARTICLE VI**

**Quality Control:** Consultant shall have a quality control/quality assurance (QC/QA) plan in effect during the entire time work is being performed under this Agreement. Prior to the start of any work, Consultant shall provide County with its QC/QA plan and

an outline of the project-specific quality control/quality procedures. Consultant shall identify quality control reviews to ensure compliance with the major deliverables within the Scope of Work for this Agreement.

#### **ARTICLE VII**

**Progress Reports:** Consultant shall submit written progress reports to County's Contract Administrator at intervals that are commensurate with the requirements of the items of work and tasks being performed and based upon a mutually agreeable schedule. At a minimum, Consultant shall submit progress reports once per month. The reports shall be sufficiently detailed for County's Contract Administrator to determine if Consultant is performing to expectations and is on schedule, to provide communication of interim findings, and to afford occasions for airing difficulties or special circumstances encountered so that remedies can be developed. County's review of these reports will ensure that Consultant's work meets a level of acceptability as determined by County's Contract Administrator, and Consultant shall be required to modify its work as necessary to meet that level of acceptability as defined by County's Contract Administrator. Separate detail shall be provided for each ongoing Task Order. Progress reports shall include the total number of hours worked by Consultant and any authorized subconsultants and shall include descriptions of the tasks and work performed, including a description of any deliverables submitted during the reporting period and the anticipated tasks, work and deliverables proposed for the subsequent reporting period. Any invoices submitted by Consultant for payment under the terms of this Agreement shall include copies of the progress reports that relate to the services being billed on those invoices.

#### **ARTICLE VIII**

**Licenses:** Consultant represents that it and any and all subconsultants employed under this Agreement are duly certified or licensed in good standing by the State of California to perform the services contemplated under this Agreement, and that Consultant and all subconsultants shall maintain said certificates and licenses in good standing throughout the term of this Agreement.

#### **ARTICLE IX**

**Ownership of Data:** Upon completion or earlier termination of all services under this Agreement, or upon the completion or earlier termination of services provided in accordance with individual Task Orders issued pursuant to this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in County without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to County. Copies may be made for Consultant's records, but shall not be furnished to others without written authorization from County's Contract Administrator. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by County. Consultant shall furnish County all necessary copies of data including data stored in electronic format, needed to complete the review and approval process of the services and deliverables provided under this Agreement.

## **ARTICLE X**

**Consultant's Project Manager:** Consultant designates Chuck Dory, Resident Engineer/Structures Rep., as its Project Manager for this Agreement. Consultant's Project Manager, or County-approved designee, shall be accessible to County's Contract Administrator, or designee, during normal County working hours and shall respond within twenty-four (24) hours to County inquiries or requests. Consultant's Project Manager shall be responsible for all matters related to Consultant's personnel, operations and any subconsultants authorized under this Agreement including, but not limited to (1) assigning qualified personnel to perform the required work and to prepare the deliverables required by the individual Task Orders issued pursuant to this Agreement; (2) reviewing, monitoring, training and directing Consultant's personnel and any subconsultants authorized herein; and (3) providing qualified and appropriate traffic control services for field work. Project Manager must be a registered engineer in the State of California.

## **ARTICLE XI**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Amendments may be made to permit mutually acceptable changes in the scope, character or complexity of the work if such changes become desirable or necessary as the work progresses. Appropriate extensions of time in case of unavoidable delays and for consideration of warranted adjustments in payment may also be accomplished by amendments to the Agreement. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto. There shall be no change in Consultant's Project Manager or subconsultants, which shall be established at the issuance of individual Task Orders, without prior written approval by County's Contract Administrator.

## **ARTICLE XII**

**Consultant to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during the term hereof.

## **ARTICLE XIII**

### **Confidentiality:**

A. Consultant and any subconsultants authorized under this Agreement shall maintain the confidentiality and privileged nature of all records, including billing records, all financial, statistical, personal, technical, or other data and information relative to County's operations together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Consultant, and all Consultant's staff, employees, and representatives, including any subconsultants authorized herein, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Community Development Agency for the purpose of, and in the performance of, this Agreement.

- B. Permission granted by County to disclose information on one occasion or at public hearings held by County relating to this Agreement shall not authorize Consultant or any subconsultants authorized under this Agreement to further disclose such information, or disseminate the same on any other occasion.
- C. Consultant and any subconsultants authorized under this Agreement shall not comment publicly to the press or any other media regarding this Agreement or County's actions on the same, except to County's staff, Consultant's own personnel or authorized subconsultants involved in the performance of this Agreement, at public hearings or in response to questions from County's Board of Supervisors.
- D. Consultant and any subconsultants authorized under this Agreement shall not issue any news release or public relations item of any nature, whatsoever, regarding services performed or to be performed under this Agreement without prior review of the contents thereof by County, and receipt of County's Contract Administrator's written permission.
- E. All information related to any construction estimates prepared or otherwise obtained in the performance of this Agreement is confidential, and shall not be disclosed by Consultant to any entity other than to County.
- F. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.
- G. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

#### **ARTICLE XIV**

**Subcontracting, Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County. County may, at its sole discretion, through its Contract Administrator, authorize Consultant to utilize subconsultants for services identified in the individual Task Orders issued pursuant to this Agreement. Said authorization and approval shall be sought and obtained by Consultant prior to subconsultants' commencement of any work under this Agreement. Specific subconsultants shall be authorized in individual Task Orders issued pursuant to this Agreement. Consultant shall require each subconsultant, to the extent of the work to be performed by the subconsultant, to be bound to Consultant by the terms of this Agreement and to assume toward Consultant all of the obligations and responsibilities that Consultant, by this Agreement, assumes toward County.

Notwithstanding any provision to the contrary, at no time shall County be obligated to pay separately for subconsultant services.

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

## **ARTICLE XV**

**Independent Contractor/Liability:** Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner in accordance with good engineering practices and shall be liable for its own negligence and negligent acts of its employees and subconsultants. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees, agents, associates, representatives, or subconsultants.

## **ARTICLE XVI**

**Prevailing Wage:** County requires Consultant's services on public works project(s) involving local, state and/or federal funds to which prevailing wage requirements may apply. As a consequence, Consultant and any subconsultants authorized in the individual Task Orders issued pursuant to this Agreement shall comply with all applicable state and federal prevailing wage rates, statutes, rules and regulations then in effect. In the event of conflict between applicable federal and state provisions, the higher prevailing wage rate will apply. Consultant and its subconsultants shall use the general prevailing wage rates determined by the Director of Industrial Relations for the county in which the work is to be done, which are available at the principal office of County's Community Development Agency. Changes, if any, to the general prevailing wage rates will be available at the same location.

Federal minimum wage rates are determined by the United States Secretary of Labor and may be examined at the office described above. Future effective general prevailing wage rates which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed in the general prevailing wage rates. Consultant and any authorized subconsultants shall comply with all applicable wage requirements, as set forth in Labor Code Sections 1770 et seq., 1773.2, 1775, 1776, 1810, and 1813. In accordance with the provisions of Labor Code Section 1810, eight (8) hours of labor shall constitute a legal day's work upon all work done hereunder, and Consultant and any authorized subconsultants shall also conform to and be bound by the provisions of Labor Code Sections 1810 through 1815.

As required under the provisions of Labor Code Section 1776, Consultant and all subconsultants authorized under this Agreement shall keep accurate payroll records. Consultant shall submit certified payroll to County in accordance with ARTICLE III, Compensation for Services.

## **ARTICLE XVII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and

other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement and/or any Task Order issued pursuant to this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

#### **ARTICLE XVIII**

##### **Default, Termination, and Cancellation:**

A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (Time to Cure), then such party shall be in default. The Time to Cure may be extended at the discretion of the party giving notice. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the Time to Cure has expired.

B. **Bankruptcy:** This Agreement, at the option of County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.

C. **Ceasing Performance:** County may terminate this Agreement in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.

D. **Termination or Cancellation without Cause:** County may terminate this Agreement or any Task Order issued pursuant to this Agreement, in whole or in part upon seven (7) calendar days' written notice by County for any reason. If

such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates, as set forth in the Notice of Termination provided to Consultant, and for such other services which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the not-to-exceed amount of the Task Order or the total amount of this Agreement, as applicable. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise.

- E. Consultant shall comply with the requirements of this Article, regarding administrative, contractual, or legal remedies in instances of default, termination or cancellation and with other terms and conditions of County's grant funding agreements that provide for such sanctions and penalties as may be appropriate in instances where contract terms are violated or breached.
- F. Completion of Work: In the event of termination of the Agreement, for default or without cause, County reserves the right to take over and complete any work, service, or task by contract or by other means.
- G. The maximum amount for which County shall be liable if this Agreement is terminated is the not-to-exceed amount of the Task Order or the total amount of this Agreement, as applicable.

**ARTICLE XIX**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado  
Community Development Agency  
Transportation Division  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Matthew D. Smeltzer, P.E.  
Deputy Director, Engineering  
Fairlane Engineering Unit

With a copy to:

County of El Dorado  
Community Development Agency  
Administration and Finance Division  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Michele Weimer  
Administrative Services Officer  
Contract & Procurement Unit

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Ghirardelli Associates, Inc.  
2055 Gateway Place, Suite 410  
San Jose, California 95131

Attn.: Randall Bruner,  
Executive Vice President

or to such other location as Consultant directs.

#### **ARTICLE XX**

**Change of Address:** In the event of a change in address for Consultant's principal place of business, Consultant's Agent for Service of Process, or Notices to Consultant, Consultant shall notify County in writing as provided in ARTICLE XIX, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

#### **ARTICLE XXI**

**Indemnity:** To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, agents, employees and representatives from and against any and all claims, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, County employees and the public, or damage to property, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of Consultant includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

#### **ARTICLE XXII**

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.

- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by Consultant in performance of the Agreement.
- D. In the event Consultant is a licensed professional and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Consultant shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County's Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Consultant agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event. New certificates of insurance are subject to the approval of County's Risk Management Division, and Consultant agrees that no work or services shall be performed prior to the giving of such approval.
- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without prior written notice to County; and
  - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Consultant's insurance coverage shall be primary insurance as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to, and approved, by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department, either independently or in consultation with County's Risk Management Division as essential for protection of County.

In addition, Consultant shall ensure that all subconsultants authorized pursuant to this Agreement shall maintain workers' compensation, general liability, automobile liability and professional liability insurance as specified above and shall provide County with proof of same if requested.

#### **ARTICLE XXIII**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or the interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### **ARTICLE XXIV**

**Interest of Consultant:** Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire the same in any manner or degree, in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

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

Consultant has acknowledged this interest of consultant and Consultant has duly executed Exhibit D, marked "Interest of Consultant Disclosure Statement," incorporated herein and made by reference a part hereof.

Consultant hereby certifies that neither Consultant, any subconsultants authorized herein, nor any firm affiliated with Consultant has prepared plans, specifications, and estimates for any construction project named in the individual Task Order, as applicable. Consultant also certifies that neither Consultant, nor any firm affiliated with Consultant will bid on any construction contract or construction subcontracts for any construction project resulting from work assigned under this Agreement. An affiliated firm is one which is subject to the control of the same persons through joint-ownership, or otherwise. Additionally, Consultant certifies that no person working under this Agreement is also employed by the construction contractor for any Project included within this Agreement.

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

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

#### **ARTICLE XXV**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Consultant relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE XVIII, Default, Termination, and Cancellation, herein.

#### **ARTICLE XXVI**

**California Residency (Form 590):** All independent consultants providing services to County must file a State of California Form 590, certifying their California residency or, in the case of a limited liability company or corporation, certifying that they have a permanent place of business in California. Consultant will be required to submit a Form 590 prior to execution of this Agreement, or County shall withhold seven (7) percent of each payment made to Consultant during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

#### **ARTICLE XXVII**

**County Payee Data Record Form:** All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal

Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

#### **ARTICLE XXVIII**

**Business License:** County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Consultant warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

#### **ARTICLE XXIX**

**California Forum and Law:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

#### **ARTICLE XXX**

**Compliance with Federal, State and Local Agency Requirements:** County is relying on federal assistance or grants, state funds and on local agency or other grant funds for all or a portion of the funding for the services to be provided herein. As a requirement of County's use of federal, state and local agency grant funds, County is required to comply with certain contracting requirements and to extend those requirements to all third party contracts. Consultant shall comply with all applicable provisions of federal, state and local agency regulations, including those required by the Federal Highway Administration (FHWA) grant funding requirements, regulations, and related executive orders regarding the use, expenditure, control, reporting, allowable costs and management of such funds. The following Office of Management and Budget (OMB) Circulars, as applicable, and as implemented by various parts of the Code of Federal Regulations (CFR), are incorporated by reference and made a part of this Agreement:

*2 CFR Part 225, "Cost Principles for State, Local, and Indian Tribal Governments (formerly OMB Circular A-87)"*

*Circular A-133, revised June 26, 2007, "Audits of States, Local Governments, and Non-Profit Organizations"*

Copies of the OMB Circulars are available on the Internet at:

<http://www.whitehouse.gov/omb/circulars/index.html>.

Failure of Consultant to comply with any federal, state or local agency provision may be the basis for withholding payments for charges made by Consultant and for such other remedies as may be appropriate including termination of this Agreement. Consultant shall further comply with any flow-down or third-party contracting provisions which may be required under the federal, state or local agency regulations and which may apply to Consultant's subcontracts, if any, associated with this Agreement.

#### **ARTICLE XXXI**

**Working Office:** Consultant shall establish a working office at a place acceptable to County. The parties hereto acknowledge and agree that Consultant's office located at 770 L Street, Suite 950, Sacramento, California 95814.

#### **ARTICLE XXXII**

**Cost Principles:** The Federal Acquisition Regulations in Title 48, CFR, Part 31 et seq. are the governing factors regarding allowable elements of cost for all services to be performed under this Agreement.

- A. Consultant shall comply with 2 CFR Part 225, Cost Principles for State and Local Governments, and with federal administrative procedures pursuant to 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and 49 CFR, Chapter 1, Parts 31 et seq., Federal Acquisition Regulations System, insofar as those regulations may apply to Consultant. This provision shall apply to every sub-recipient receiving funds as a Consultant or subconsultant under this Agreement.
- B. Any expenditures for costs for which Consultant has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR Part 225, 48 CFR, Parts 31 et seq. or 49 CFR, Part 18 are subject to repayment by Consultant to County.
- C. Travel and subsistence (per diem) reimbursements, if applicable, and third-party contract reimbursements to subconsultants will be allowable as Project costs only after those costs are incurred and paid for by Consultant. For the purposes of this Agreement, travel and per diem costs will not be reimbursed for any services performed by Consultant or any authorized subconsultant.
- D. Notwithstanding any other provision of this Agreement to the contrary, payments to Consultant for travel and subsistence (per diem) and mileage expenses, if applicable, for Consultant's staff or for subconsultants claimed for reimbursement shall not exceed the lesser of (1) the rates to be paid to County employees under the current Board of Supervisors Travel Policy in effect at the time the expenses are incurred; or (2) the rates authorized to be paid to rank and file state employees under the then current State of California Department of Personnel Administration (DPA) rules. If the rates invoiced are in excess of these authorized rates, then Consultant is responsible for the cost difference and any overpayments shall be reimbursed to County upon demand. For the purposes of this Agreement, only mileage expenses for subconsultants, if applicable, shall be eligible for reimbursement in accordance with ARTICLE III, Compensation for Services, above. No reimbursements for travel and subsistence (per diem) expenses for Consultant or subconsultants shall be allowed.
- E. Consultant and its subconsultants, if applicable shall establish and maintain accounting systems and records that properly accumulate and segregate funds received under this Agreement by line item. The accounting systems of Consultant and all subconsultants shall conform to Generally Accepted Accounting Principles (GAAP), shall enable the determination of incurred costs at

interim points of completion, and shall provide support for reimbursement of payment vouchers or invoices.

### **ARTICLE XXXIII**

**Audit and Inspection of Records:** Consultant shall maintain and make available to the FHWA, the State of California, the California State Auditor, and County or to any duly authorized representative of the United States Department of Transportation, Comptroller General of the United States, or County all books, documents, papers, job cost records, detailed cost estimates, claims, and accounts, including payment, property, payroll, personnel, subconsultant records, and financial records related to or which arise out of the work or under terms of this Agreement. Consultant shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and in accordance with the provisions of ARTICLE XXX, Compliance with Federal, State and Local Agency Requirements, and ARTICLE XXXII, Cost Principles, above. These books, papers, records, claims and accounts shall be made available for examination during normal business hours and shall be readily available and accessible at Consultant's principal place of business in California, for audit during normal business hours at such place of business. Consultant shall provide office space, photocopies and other assistance to enable audit or inspection representatives to conduct such audits or inspections. This right to audit books and records directly related to this Agreement shall also extend to all subconsultants authorized under this Agreement. Consultant shall incorporate this provision in any subcontract entered into as a result of this Agreement and shall require its subconsultants to agree to cooperate with the listed agencies by making all appropriate and relevant Project records available to those agencies for audit and copying.

### **ARTICLE XXXIV**

**Record Retention:** All of Consultant's books, papers, job cost records, detailed cost estimates, claims, and accounts, including payment, property, payroll, personnel, subconsultant records, and financial records related to or which arise out of the work or under terms of this Agreement shall be retained for access, inspection and/or audit, as applicable, by the United States Department of Transportation, the FHWA, Comptroller General of the United States, the State of California, the California State Auditor and County or their duly authorized representatives for at least four (4) years after County's final payment to Consultant under this Agreement.

Consultant shall incorporate this provision in any subcontract entered into as a result of this Agreement.

### **ARTICLE XXXV**

**Covenant Against Contingent Fees:** By executing this Agreement, Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, County shall have the right to annul this Agreement without liability or at its discretion to deduct from the Agreement price or consideration, or otherwise

recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

The parties hereto have acknowledged this covenant against contingent fees and Consultant has duly executed Exhibit E, marked "Certification of Consultant," incorporated herein and made by reference a part hereof.

#### **ARTICLE XXXVI**

**Design Standards:** Consultant shall perform all services under this Agreement in conformance with applicable federal, state and local design standards or other standards for work performance stipulated in ARTICLE V, Standards for Work, above, or in the individual Task Orders issued pursuant to this Agreement.

#### **ARTICLE XXXVII**

**Documentation:** Consultant shall document the results of its work to the satisfaction of County and if applicable, the State of California and the FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the Agreement objectives.

#### **ARTICLE XXXVIII**

**Patent Rights:** Applicable patent rights provisions described in 41 CFR 1-9.1 regarding rights to inventions are hereby included in this Agreement as applicable.

Consultant shall incorporate this provision in its subcontracts, if any, in excess of \$25,000.

#### **ARTICLE XXXIX**

**Copyrights:** County may permit copyrighting reports or other Agreement products. If copyrights are permitted, County, FHWA and State of California shall have the royalty-free non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Federal Government purposes:

- (a) The copyright in any work developed under this Agreement; and
- (b) Any rights of copyright to which Consultant purchases ownership with grant support.

Consultant shall incorporate this provision in its subcontracts, if any, in excess of \$25,000.

#### **ARTICLE XL**

##### **Consultant's Endorsement on PS&E/Other Data:**

If applicable, the responsible Consultant/Engineer shall sign all plans, specifications, estimates (PS&E) and all engineering data furnished by it and where appropriate, indicate its registration number.

#### **ARTICLE XLI**

**Disadvantaged Business Enterprise (DBE) Considerations:** Consultant must give consideration to DBE firms as specified in 23 CFR 172.5(b) and in Appendix A to Part 26 of 49 CFR. Consultant shall ensure that certified DBE firms have the opportunity to participate in the performance of this Agreement and Consultant shall take all necessary

and reasonable steps for such assurance. **For the purposes of this Agreement, the DBE goal shall be 0.00%.**

## **ARTICLE XLII**

### **DBE Participation:**

- A. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." It is the policy of County that certified DBE firms shall have the maximum opportunity to participate in the performance of agreements financed in whole or in part with federal funds. Consultant shall ensure that certified DBE firms, as defined in the Code of Federal Regulations, have the maximum opportunity to participate in the performance of this Agreement and shall take all necessary and reasonable steps, as set forth in said Part 26, for such assurance. Consultant, if it obtains DBE participation on this Agreement, will assist Caltrans in meeting its federally mandated statewide overall DBE goal. Consultant has prepared and submitted with its proposal, a "Local Agency Consultant DBE Commitment" form. Consultant shall prepare and submit a fully-executed "Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" form with its final invoice.
- B. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. Consultant, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as County deems appropriate.
- C. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.
- D. A DBE may be terminated only with prior written approval from County and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting County's consent for the termination, Consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

## **ARTICLE XLIII**

### **Nondiscrimination:**

- A. In connection with its performance under this Agreement, Consultant and its subconsultants, if any, shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including, but not limited to the following: Consultant, its employees, subconsultants and representatives shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, medical condition,

mental disability, marital status, age, sex, or denial of family care leave. Consultant and subconsultants, if any are authorized herein, shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants if any are authorized herein, shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12990 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant, its employees, subconsultants and representatives shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- B. Where applicable, Consultant shall include the nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. The Congress of the United States, the Legislature of the State of California and the Governor of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with USDOT FHWA public funds. Consultant agrees to comply with the requirements of Exhibit F, marked "Fair Employment Practices Addendum," and the requirements of Exhibit G, marked "Nondiscrimination Assurances," including Appendices A through D to Exhibit G, both of which exhibits and the four (4) Appendices to Exhibit G are incorporated herein and made by reference a part hereof. Consultant further agrees that any agreement entered into by Consultant with a third party for the performance of project-related work shall incorporate Exhibits F and G and Appendices A through D to Exhibit G as essential parts of such agreement to be enforced by that third party as verified by County.
- D. Consultant's signature executing this Agreement shall provide any certifications necessary under the federal laws and the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

#### **ARTICLE XLIV**

**Compliance with Disability Acts:** Consultant shall comply with: (a) Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of disability in federally assisted programs; (b) the Americans with Disabilities Act (ADA) of 1990 which prohibits discrimination on the basis of disability irrespective of funding; and (c) all applicable regulations and guidelines issued pursuant to both the Rehabilitation Act and the ADA.

## **ARTICLE XLV**

### **Debarment and Suspension Certification:**

- A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2, Code of Federal Regulations, Parts 180 and 1200, Debarment and Suspension Certificate, which certifies that it or any person associated therewith in the capacity of the owner, partner, director, officer or manager, is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted or had a civil judgment rendered against it by a court of competent jurisdiction in any manner involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to County.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency and dates of action.
- C. Consultant agrees to include this Article without modification in all subcontracts, if any.
- D. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the FHWA.

## **ARTICLE XLVI**

### **Prohibition of Expending County, State or Federal Funds for Lobbying:**

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

form and instructions are attached hereto as Exhibit H and are incorporated herein and made by reference a part hereof.

- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. Consultant also agrees by signing this document that it shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

#### **ARTICLE XLVII**

##### **Disputes:**

- A. Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by a committee consisting of County's Contract Administrator and the Community Development Agency Director, or designee, which may consider written or verbal information submitted by Consultant.
- B. Not later than thirty (30) days after completion of all work under any Item or Work or individual Task Order issued pursuant to this Agreement, Consultant may request review by County's Board of Supervisors of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.
- D. Consultant's failure to follow this dispute resolution procedure shall constitute a waiver of such claims and a bar to further proceedings.

#### **ARTICLE XLVIII**

##### **Audit Review Procedures:**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by County's Chief Fiscal Officer.
- B. Not later than thirty (30) days after issuance of the final audit report, Consultant may request a review by County's Chief Fiscal Officer of unresolved audit issues. The request for review shall be submitted by Consultant in writing.
- C. Neither the pendency of a dispute nor its consideration by County shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

- D. Consultant and its subconsultants' Agreements, if any, including cost proposals and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a Contract Audit, an Incurred Cost Audit, an ICR Audit, or a Certified Public Accountant (CPA) ICR Audit Workpaper Review. If selected for audit or review, the Agreement, cost proposal and ICR and related workpapers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit Workpaper Review, it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's workpapers. The Agreement, cost proposal, and ICR shall be adjusted by Consultant and approved by County's Contract Administrator to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Task Order by this reference if directed by County, at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the Federal, State, or local governments have access to CPA workpapers, will be considered a breach of the Agreement terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

#### **ARTICLE XLIX**

**Inspection of Work:** Consultant and any subconsultants authorized herein shall permit County, the State of California and the FHWA, if federal participating funds are used in this Agreement to review and inspect the project activities and files at all reasonable times during the performance period of this Agreement, including review and inspection on a daily basis.

#### **ARTICLE L**

##### **Safety:**

- A. Consultant shall comply with OSHA regulations applicable to Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by County's Safety Officer and other County representatives. Consultant's personnel and any subconsultants authorized herein shall wear hard hats and safety vests at all times while working on construction project sites.
- B. Pursuant to the authority contained in Section 591 of the Vehicle Code, County has determined that there are areas that may be within the limits of certain projects that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14 and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- C. Consultant must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

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

#### **ARTICLE LI**

##### **Claims Filed by County's Construction Contractors:**

- A. If claims are filed by County's construction contractors relating to work performed by Consultant's personnel or subconsultants, and additional information or assistance from Consultant's personnel or subconsultants is required in order to evaluate or defend against such claims, Consultant agrees to make its personnel and/or subconsultants available for consultation with County's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. Consultant's personnel and subconsultants that County considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from County. Any consultation or testimony that may be required by County will be reimbursed at the same rates that are being paid for Consultant's personnel services under Exhibit B hereto.
- C. Services of Consultant's personnel or subconsultants in connection with County's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.
- D. Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all of the provisions of this Article.

#### **ARTICLE LII**

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

#### **ARTICLE LIII**

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

#### **ARTICLE LIV**

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

## **ARTICLE LV**

**Contracting with Small and Minority Firms and Women's Business Enterprises:** It is a national policy to award a fair share of contracts to small and minority business firms. County is strongly committed to the objectives of this policy and encourages all Consultants to take affirmative steps to ensure such fairness.

1. Consultant shall take all necessary affirmative steps to assure that minority firms, and women's business enterprises are used when possible.
2. Affirmative steps shall include:
  - (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - (b) Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
  - (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business and women's business enterprises;
  - (d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business and women's business enterprises;
  - (e) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce as appropriate, and
  - (f) Requiring the prime consultant, if subcontracts are to be let, to take the affirmative steps listed in 2 (a) through (e) above.

## **ARTICLE LVI**

**Environmental Compliance:** Consultant shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)); Section 508 of the Clean Water Act (33 U.S.C. 1368); Executive Order 11738; Environmental Protection Agency regulations (40 CFR Part 15); and mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

## **ARTICLE LVII**

### **Equipment Purchase**

- A. Prior authorization in writing, by County's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or Consultant services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in Consultant's

Cost Proposal and exceeding \$5,000, prior authorization by County's Contract Administrator is required; three (3) competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

- C. Any equipment purchased as a result of this Agreement is subject to the following: "The Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two (2) years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, County shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, Consultant may either keep the equipment and credit County in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established County procedures; and credit County in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by County and Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the County." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000.00 is credited to the project.
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.

#### **ARTICLE LVIII**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Matthew D. Smeltzer, P.E., Deputy Director, Engineering, Fairlane Engineering Unit, Transportation Division, Community Development Agency, or successor.

#### **ARTICLE LIX**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.

#### **ARTICLE LX**

**Partial Invalidity:** If any provision of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

#### **ARTICLE LXI**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

**ARTICLE LXII**

**Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

**ARTICLE LXIII**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

DRAFT

**Requesting Contract Administrator Concurrence:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Matthew D. Smeltzer, P.E.  
Deputy Director, Engineering  
Fairlane Engineering Unit  
Transportation Division  
Community Development Agency

**Requesting Division Concurrence:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Bard R. Lower  
Transportation Division Director  
Community Development Agency

**Requesting Department Concurrence:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Steven M. Pedretti, Director  
Community Development Agency

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates indicated below.

**--COUNTY OF EL DORADO--**

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Board of Supervisors  
"County"

Attest:  
James S. Mitrisin  
Clerk of the Board of Supervisors

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Deputy Clerk

**--GHIRARDELLI ASSOCIATES, INC.--**

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Randall Bruner  
Executive Vice President  
"Consultant"

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Mark Ghirardelli  
Chief Financial Officer

**Ghirardelli Associates**

**Exhibit A**

**Scope of Work**

**Scope of Work Table of Contents**

**Item of Work A. Pre-Construction Services..... 1**

**Item of Work B. Construction Management Services..... 3**

**Item of Work C. Post-Construction Services..... 9**

**Optional Tasks..... 10**

**DELIVERABLES:**

Unless otherwise indicated below, and notwithstanding any other provision of this Agreement to the contrary, Consultant shall submit hard copy deliverables via US Mail or in-person delivery and electronic copy deliverables via email to County's Contract Administrator with a copy to County's Project Manager, Dustin Harrington, PE. All deliverables, whether hard copy or electronic versions, shall be prepared and submitted in accordance with the computer and software requirements of ARTICLE I, Scope of Services, of this Agreement. All digital photographs shall be submitted on a CD-ROM in jpeg format with a minimum resolution of 2816 X 2112. County's Project Manager's current address is 2850 Fairlane Court, Placerville, CA 95667 and the current email address is [dustin.harrington@edcgov.us](mailto:dustin.harrington@edcgov.us). Changes to County's Project Manager's physical or email address will be transmitted to Consultant in accordance with the provisions of ARTICLE XIX, Notice to Parties, of this Agreement.

Unless otherwise directed by County's Contract Administrator, the files for the Project will be located at the office provided by County for Consultant's use, located at 2850 Fairlane Court, Placerville, CA 95667.

**Item of Work A. – Pre-Construction Services (WBS Activity ID C010E)**

In accordance with County directives and the current editions of the *Caltrans Construction Manual* and the *Caltrans BCRP Manual*, Consultant shall perform pre-construction activities including, but not limited to, the following:

### 1) Contract Document Review:

Consultant shall review the Project construction contract documents, copies of which shall be provided to Consultant by County, for ambiguities, errors, omissions and contradictions between the plans, specifications, pay items and item payment provisions. Consultant shall also review the construction contract documents for clarity, completeness, consistency, and constructability. Consultant shall prepare a written report of Consultant's findings from its review. Consultant shall schedule a kick-off meeting with County staff to discuss the findings in the written report and other issues regarding the Project. Consultant shall set up Project files in accordance with County directives and in accordance with the current editions of the *Caltrans Construction Manual*, which can be found at <http://www.dot.ca.gov/hq/construc/manual2001>, and the *Caltrans BCRP Manual*, which can be found at <http://www.dot.ca.gov/hq/esc/construction/manuals/>.

**Deliverables:** Consultant shall set up Project files and shall submit the written report of Consultant's findings via email, within one (1) week of execution of this Agreement. Consultant shall place a hard copy of the findings report in the Project files. Consultant and County shall meet for a kick-off meeting within one (1) week of completion of the written report.

### 2) Documentation of Pre-Construction Conditions:

Consultant shall document pre-construction conditions using digital photographs and video recordings. The documentation shall encompass the entire Project site and any off-site areas that may be affected by Project construction, with special attention given to environmentally sensitive areas and areas where private property meets County or State property. Consultant shall provide a digital camera for both stills and video.

**Deliverables:** Consultant shall place a CD-ROM with all digital photographs and videos in the Project files within one (1) week of execution of this Agreement. Consultant shall store all digital photographs and videos on the County-provided computer for the duration of the Project.

### 3) Pre-Construction Meeting:

Consultant shall facilitate a pre-construction meeting with County's Construction Contractor (Contractor) to be held at County's Transportation Division's office in Placerville prior to the start of construction activities on the Project. Consultant shall develop an invitation list for the pre-construction meeting based upon direction from County's Project Manager and Consultant shall use the invitation list to invite participants to the pre-construction meeting. During the meeting, Consultant's Resident Engineer shall discuss items including, but not limited to, the following: Project plans and specifications requirements, Project communication lines, safety issues, labor compliance, utilities, staking, materials testing, scheduling of regular progress meetings, progress payments, and Contract change order and claims procedures. Consultant shall prepare the

agenda for the meeting and shall prepare meeting minutes after the meeting. Consultant shall also prepare a list of meeting attendees.

**Deliverables:** Consultant shall submit the list of attendees and agenda for the meeting via email at least two (2) days before the meeting. Consultant shall submit the minutes and the list of attendees from the meeting via email within two (2) days after the meeting. Consultant shall place hard copies of the agenda, minutes, and attendee list in the Project files within two (2) days after the meeting.

#### **4) Pre-Construction Water Pollution Control:**

Consultant shall make written review comments regarding the Contractor's Storm Water Pollution Prevention Plan (SWPPP), shall submit the review comments to County, and shall facilitate conditional and final acceptance of the SWPPP by issuing rejection or letters, as appropriate, regarding the Contractor's SWPPP. The issuance of all letters regarding the Contractor's SWPPP shall be in accordance with the timelines provided in the Project's Construction Contract Special Provisions.

**Deliverables:** Consultant shall email County copies of all rejection/acceptance letters regarding the Contractor's SWPPP when the letters are transmitted to the Contractor. Consultant shall place hard copies of all letters regarding the Contractor's SWPPP in the Project files within two (2) days of transmittal to the Contractor.

### **Item of Work B. – Construction Management Services (WBS Activity ID C010E, Unless Noted Otherwise Below)**

In accordance with County directives and the current editions of the *Caltrans Construction Manual* and the *Caltrans BCRP Manual*, Consultant shall perform construction management activities including, but not limited to, the following:

#### **1) Construction Inspection (WBS Activity ID C100F):**

Consultant shall utilize on-site inspectors to check the quality and quantity of the work performed by the Contractor and any subcontractors and any utility companies. Consultant shall ensure the Contractor, subcontractors, and utility company compliance with the construction contract documents, copies of which shall be provided to Consultant by County. Items to be inspected shall include, but shall not be limited to, construction materials, methods, techniques, and sequences, as well as erosion control measures. The on-site inspectors shall prepare Daily Inspection Reports each day that the Contractor, subcontractors, or utility company works on site. The Daily Inspection Reports shall document items including, but not limited to, the following:

- a. The date and the day of the week
- b. Labor (names of personnel, names of their respective companies, and their respective labor classifications)

- c. Equipment (type, make, model, company that owns or is using the equipment, and the Contractor's or subcontractor's equipment identification number)
- d. Weather
- e. Number of hours that labor and equipment were used on respective contract items of work
- f. Number of hours that labor and equipment were used on respective Contract Change Orders (CCOs)
- g. Number of hours that labor and equipment were idle
- h. Specific times (e.g., 7:30 a.m. – 11:30 a.m., 12:30 p.m. – 4:00 p.m.) that Consultant's inspector was on site
- i. Narrative section that includes all pertinent observations and discussions that occurred that day, a general description of the work performed that day, and lists and locations of the construction contract item quantities constructed that day

**Deliverables:** Consultant shall provide the Daily Inspection Report form to County for review and approval prior to utilization. Consultant shall place the completed originals of the previous week's Daily Inspection Reports in the Project files before noon every Monday.

## **2) As-Built Plans:**

During construction, Consultant shall compile as-built plans by making notes and sketches on a set of Project plans, which will be provided to Consultant by County, that show changes made to the contract plans that did not require CCOs. In addition, Consultant shall incorporate changes implemented by CCOs into the contract plans by making notes and sketches on the as-built plans or by placing supplemental or replacement sheets included with the CCOs directly into the as-built plans.

**Deliverables:** Consultant shall keep as-built plans on file in the Project files.

## **3) Digital Photography:**

Consultant shall take digital photographs of the progression of work on a daily basis.

**Deliverables:** Consultant shall place digital photographs on the County-provided computer on a weekly basis. Consultant shall place copies of the digital photographs on a CD-ROM and place the CD-ROM in the Project files on a monthly basis.

## **4) Records Maintenance:**

Consultant shall maintain Project files in an organized, efficient, logical manner

that is consistent with County directives and the current edition of the *Caltrans Construction Manual*.

**Deliverables:** Consultant shall ensure that all Project filing is performed on at least a weekly basis, except filing that will be required on a more frequent basis when specified elsewhere in this Scope of Work, or elsewhere in the Agreement.

**5) Correspondence:**

Consultant shall prepare Project correspondence including, but not limited to, letters, emails, memoranda, and reports sent to all Project stakeholders including, but not limited to, Contractor and local businesses.

**Deliverables:** Consultant shall provide copies of any Project correspondence to County via email or fax, as directed by County. Consultant shall place hard copies of all correspondence in the Project files within one (1) day of creating or receiving such correspondence.

**6) Weekly Meetings with Contractor:**

Consultant shall facilitate meetings with the Contractor, County and other interested parties on a weekly basis. Consultant shall prepare and distribute agendas and minutes for each meeting. Items covered at each meeting shall include, but not be limited to: three-week look-ahead schedule, status of submittals, CCOs, requests for information (RFIs), current Project issues, overview of schedule performance, safety issues, scheduling of materials testing and survey staking, and overall Project progress.

**Deliverables:** Consultant shall place meeting agendas in the Project files within two (2) working days before each meeting date and Consultant shall place meeting minutes in the Project files within two (2) working days after each meeting date.

**7) Construction Administration (WBS Activity ID C010E):**

Consultant shall prepare a Daily Resident Engineer's report, summarizing the day's work progress, pertinent conversations with the County or Contractor, and other noteworthy occurrences. Consultant shall prepare a Weekly Statement of Working Days at the conclusion of each week.

Consultant shall also prepare a weekly Status of Construction report, summarizing the week's activities, the schedule for the following week, status of CCOs, outstanding submittal reviews, controlling construction activities, and status of the contingency balance.

Consultant shall prepare CCOs as necessary. CCOs shall be prepared in accordance with the Caltrans Construction Manual, Caltrans Local Assistance Procedures Manual, and the County Project Manager's instructions and direction.

Consultant shall obtain authorization from County prior to any CCO work being performed.

Consultant shall maintain a high level of communication with the Contractor in order to help prevent potential claims and resolve disputes at the lowest level possible. Consultant shall carefully document all potential claims and disputes in writing and notify the County promptly in the event a dispute is unable to be resolved. Consultant shall review documentation, as necessary, in order to investigate disputes that may become formal claims and present recommendations to the County.

**Deliverables:** Consultant shall place all data and correspondence pertaining to schedule management in the Project files within five (5) working days of creating or receiving such data or correspondence.

#### **8) Schedule Management:**

Consultant shall ensure the Contractor compliance with all schedule requirements contained in the construction contract documents. Consultant shall monitor and review the Contractor's progress relative to the Contractor's schedule. By consulting with County's Project Manager, negotiating with the Contractor and enforcing the requirements contained in the construction contract documents, Consultant shall minimize delays caused by issues including, but not limited to, right-of-way delays, utility work, CCOs, inclement weather, and unforeseen conditions. Consultant shall notify the Contractor and County's Project Manager when the Contractor fails to keep pace with the Contractor's schedule.

**Deliverables:** Consultant shall place all data and correspondence pertaining to schedule management in the Project files within five (5) working days of creating or receiving such data or correspondence.

#### **9) Labor Compliance:**

Consultant shall ensure that the Contractor submits certified payroll data in accordance with County directives, the current edition of the *Caltrans Construction Manual*, and the requirements contained in the construction contract documents. Consultant shall review the Contractor's certified payroll data for compliance with construction contract documents and State and Federal labor compliance regulations.

**Deliverables:** Consultant shall place all data and correspondence pertaining to labor compliance in the Project files within five (5) working days of creating or receiving such data or correspondence. Consultant shall place the Contractor's certified payroll submittals in the Project files within one (1) week of receipt from the Contractor. Consultant shall notify the Contractor of any certified payroll issues via email or letter within two (2) days of discovering the issues.

## 10) Payment Recommendations:

In accordance with the construction contract documents, County directives and the current edition of the *Caltrans Construction Manual*, Consultant shall generate monthly progress pay estimates to be used by County to pay the Contractor. Consultant shall base the monthly progress pay estimates upon quantity calculation sheets developed by Consultant for each contract item that show the calculations, measurements, or estimates made to support payment. Consultant shall inform the Contractor of quantities for each item being paid each month prior to Consultant finalizing the monthly progress pay estimates so that any disputes regarding the amounts to be paid can be negotiated by Consultant and the Contractor.

**Deliverables:** Consultant shall place all data and correspondence pertaining to payment recommendations in the Project files within five (5) working days of creating or receiving such data or correspondence. Consultant shall submit progress pay estimates to County on or before the 22nd of every month. If the 22nd falls on a weekend or a holiday, then Consultant shall submit the progress pay estimate to County on the first working day thereafter. Consultant shall provide the format for the progress pay estimates to County for review and approval prior to utilization.

## 11) Submittal Management:

As submittals are received by Consultant from the Contractor, Consultant shall enter information for each submittal into a submittal log including, but not limited to, date received, submittal description, party responsible for review, response due date, actual response date, and submittal approval/rejection status. When Consultant is not responsible for submittal review, Consultant shall perform an initial review for submittal completeness and then forward the submittal to the party responsible for review of the submittal or return it to the Contractor for modification and resubmittal. When Consultant is responsible for submittal review, Consultant shall review the submittal and respond in a timely manner consistent with the construction contract documents, County's directives and the current edition of the *Caltrans Construction Manual*.

**Deliverables:** Consultant shall place all data pertaining to submittals (including, but not limited to, submittals, analysis data or calculations, correspondence, and a copy of the submittal log) in the Project files within five (5) working days of creating or receiving such data. Consultant shall review all of the Contractor's submittals and when Consultant is responsible for submittal review, Consultant shall respond via email or letter (as appropriate and as directed by County) within the timeframes contained in the construction contract documents. When Consultant is not responsible for submittal review, Consultant shall perform an initial review for submittal completeness, log the submittal, and forward it to the party responsible for review of the submittal or return it to Contractor for modification and resubmittal within one (1) working day of receipt of the submittal from the Contractor.

## 12) RFIs (WBS Activity ID C105E):

As RFIs are received by Consultant from Contractor, Consultant shall enter the date received into an RFI log. The RFI log shall contain information for each RFI including, but not limited to, date received, RFI description, party responsible for review, target response date, actual response date, and RFI open/closed status. When Consultant is not responsible for RFI review, Consultant shall perform an initial review for RFI clarity and completeness and then forward the RFI to the party responsible for review of the RFI or return it to the Contractor for modification and resubmittal. When Consultant is responsible for RFI review, Consultant shall review the RFI and respond to the Contractor within five (5) working days of RFI receipt from the Contractor.

**Deliverables:** Consultant shall place all data and correspondence pertaining to RFIs in the Project files within five (5) working days of creating or receiving such data or correspondence. Consultant shall review all Contractor RFIs and when Consultant is responsible for RFI review, Consultant shall respond to the Contractor via email or letter (as appropriate and as directed by County) within five (5) working days of RFI receipt from the Contractor. When Consultant is not responsible for RFI review, Consultant shall perform an initial review for RFI clarity and completeness, log the RFI, and forward it to the party responsible for review of the RFI or return it to the Contractor for modification and resubmittal within one (1) working day of receipt of the RFI from the Contractor.

## 13) Construction Engineering (WBS Activity ID C105E):

Consultant shall provide construction engineering services including, but not limited to, the following:

- 1) Shoring, excavation, and falsework plan review, analysis, and responses to the Contractor
- 2) Calculation, analysis, and review of temporary and finished elevations
- 3) Development, analysis and review of revisions to construction contract documents for incorporation into CCOs
- 4) Analysis of Portland cement concrete mix designs
- 5) Shop drawing and working drawing review, analysis and responses to the Contractor
- 6) Concrete placement plan review, analysis and responses to the Contractor
- 7) Analysis of formwork designs and systems
- 8) Calculation and analysis of post tensioning system strand elongations during stressing operations
- 9) Calculation of joint seal groove widths

**Deliverables:** Consultant shall place all data, calculations, and correspondence pertaining to construction engineering in the Project files within five (5) working days of creating or receiving such data, calculations, or correspondence.

**14) Water Pollution Control (WBS Activity ID C105E):**

Consultant shall provide water pollution control services including, but not limited to, the following:

- 1) Consultant shall ensure Contractor compliance with all water pollution control requirements, including but not limited to requirements in the contract documents, the Construction General Permit (CGP) issued by the State Water Resources Control Board, and all Project specific permits.
- 2) Consultant shall ensure Contractor compliance with Contractor's accepted SWPPP. Consultant shall ensure that any updates to Contractor's accepted SWPPP are submitted, reviewed, and approved in accordance with the requirements in the construction contract documents.
- 3) Consultant shall perform inspections of the Contractor's water pollution control measures deployed at the Project site in accordance with the intervals described in the construction contract documents and in accordance with the CGP. Consultant shall coordinate inspections by State and Federal regulatory agencies at the Project site whenever such agencies request inspections.

**Deliverables:** Consultant shall place all data and correspondence pertaining to water pollution control in the Project files within five (5) working days of creating or receiving such data or correspondence. Consultant shall forward inspection reports and test data to County for input to the State's electronic tracking system.

**Item of Work C. – Post-Construction Services (WBS Activity ID C205E)**

In accordance with County's directives and the current edition of the *Caltrans Construction Manual*, Consultant shall perform Project closeout duties including, but not limited to, the following:

- 1) Preparation of Project Closeout documents in accordance with Chapter 17 of the Caltrans Local Assistance Procedures Manual
- 2) Preparation of the Proposed Final Estimate
- 3) Final As-Built Plans
- 4) Notice of Acceptance
- 5) Reports of Completion for the bridge and roadway construction, including as-built Prestress System Shop Drawings and completed joint seal calculations
- 6) All final contract records

**Deliverables:** Consultant shall place all data and correspondence pertaining to Project closeout in the Project files within five (5) working days of creating or receiving such data or correspondence. Consultant shall hand deliver one (1) complete hard copy of as-built plans to County within sixty (60) days of final acceptance of Project. Consultant shall email the Notice of Acceptance to County within one (1) week of receiving an email request for the Notice of Acceptance by County's Contract Administrator. Consultant shall email the Proposed Final Estimate to County within one (1) week of receiving an email request for the Proposed Final Estimate from County's Project Manager.

### **OPTIONAL TASKS**

If County determines it is necessary to proceed with Optional Tasks to supplement or modify the Scope of Work for the Project, Optional Tasks in the form of Task Orders, will be issued, pursuant to the provisions of this Agreement.

# Ghirardelli Associates, Inc.

## Exhibit B

### Rate Schedule

Item	Rate
<b>LABOR</b>	
Resident Engineer/Structures Representative	\$190.00 – 220.00 / hour
Civil/Bridge Inspector	\$140.00 – 170.00 / hour
Assistant Resident Engineer	\$150.00 – 180.00 / hour
Critical Path Method (CPM) Scheduler	\$170.00 – 230.00 / hour
Office Engineer	\$100.00 – 130.00 / hour
<b>EXPENDITURES</b>	
Other Direct Costs	Actual Cost
*Mileage Expenses	

- Rates include vehicle, mileage, mobile phone, laptop, and camera.
- Overtime rates for field personnel will be charged in accordance with State and Federal law.
- County will be billed for time and a half overtime at 121.74% of the hourly billing rate and for double overtime at 143.48% of the hourly billing rate.

Time and a half overtime will be billed for all hours worked in excess of eight (8) hours, up to and including twelve (12) hours in any workday (twenty-four [24] hour period from midnight to midnight), and for the first eight (8) hours worked on the seventh consecutive day of work in a work week.

Double overtime will be billed for all hours worked in excess of twelve (12) hours in any workday (twenty-four [24] hour period from midnight to midnight), and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week.

- Other direct Project charges including extensive reproductions, delivery charges, and other direct costs shall be billed at actual cost without markup. Any invoices that include other direct costs, shall be accompanied by backup documentation to substantiate Consultant's costs for the services being billed on those invoices.

\*Reimbursement for mileage expenses for Consultant and for any subconsultants, if applicable, shall be compensated in accordance with the provisions of ARTICLE III, Compensation for Services, of this Agreement.

**Ghirardelli Associates, Inc.**

**Exhibit C**

**Cost Proposal\***

**Scope of Work**

Item of Work - A	Pre-Construction Services	\$	8,499.20
Item of Work - B	Construction Management Services	\$	486,496.00
Item of Work - C	Post-Construction Services	\$	8,499.20
			<hr/>
	Consultant Subtotal	\$	503,494.40

**Other Direct Costs**

\$ 5,000.00

**Optional Tasks**

\$ 96,505.60

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\$ 96,505.60

**Total Proposed Agreement Budget Cost Estimate \$ 600,000.00**

\*All expenses and their distribution among Tasks are estimates only. This Exhibit represents the composition of the total not-to-exceed budget for this Agreement. In the performance of the Scope of Work to be provided in accordance with this budget, Consultant may request to reallocate the expenses listed herein among the various Scope of Work tasks and items of work, Other Direct Costs, and Optional Tasks identified herein (not including subconsultants), subject to County's Contract Administrator's written approval. In no event shall the total not-to-exceed amount of the Agreement be exceeded.

Notes:

- (1) Listed as additional resources with no extended costs. Personnel available upon request for additional costs.
- (2) Total not-to-exceed amount based on County furnishing one (1) inspector as specified in the RFP.
- (3) Rates include: Vehicle, mileage, laptop computer, camera, and cellular phone.
- (5) Overtime billed in accordance with prevailing wage State and Federal labor laws.

**Ghirardelli Associates, Inc.**

**Exhibit D**

**INTEREST OF CONSULTANT DISCLOSURE STATEMENT**

Disclosure of Conflicts

In accordance with ARTICLE XXIV, Interest of Consultant, in the space provided below, and on supplemental sheets as necessary, (a) Consultant shall disclose any financial, business or other relationship with County that may have an impact upon the outcome of this Agreement or any ensuing County construction project; and (b) Consultant shall disclose current clients who may have a financial interest in the outcome of this Agreement or any ensuing County construction project.

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Certification

The undersigned hereby certifies that, to the best of his or her knowledge and belief, no interest exists that is required to be disclosed in this Interest of Consultant Disclosure Statement, other than as disclosed above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Date

**Ghirardelli Associates, Inc.**

**Exhibit E**

**CERTIFICATION OF CONSULTANT**

I HEREBY CERTIFY that I am the Executive Vice President and duly authorized representative of the firm of Ghirardelli Associates, Inc., whose address is 2055 Gateway Place, Suite 410, San Jose, California 95131, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Consultant) to solicit or secure this Agreement; nor

(b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement; nor

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this Agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this Agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Randall Bruner  
Executive Vice President

# Ghirardelli Associates, Inc.

## Exhibit F

### FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Consultant will not discriminate against any employee for employment because of race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave or disability leave. Consultant will take affirmative action to ensure that employees are treated during employment, without regard to their race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave or disability leave. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant shall post in conspicuous places, available to employees for employment, notices to be provided by State setting forth the provisions of this Fair Employment section.

2. Consultant, its consultant(s) and all subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 1290-0 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Each of Consultant's consultants and all subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. Consultant shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. Consultant will permit access to the records of employment, employment advertisements, application forms and other pertinent data and records by County, State, the State Fair Employment and Housing Commission or any other agency of the State of California designated by State, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) County may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which Consultant was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Consultant has violated the Fair Employment Practices Act and had issued an order under Labor Code

# Ghirardelli Associates, Inc.

## Exhibit F

Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, County shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by County in securing the goods or services thereunder shall be borne and paid for by Consultant and by the surety under the performance bond, if any, and County may deduct from any moneys due or thereafter may become due to Consultant the difference between the price named in the Agreement and the actual cost thereof to County to cure Consultant breach of this Agreement.

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# Ghirardelli Associates, Inc.

## Exhibit G

### NONDISCRIMINATION ASSURANCES

Consultant hereby agrees that, as a condition to receiving any federal financial assistance from County or the State, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the Regulations), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which County receives federal financial assistance from the Federal Department of Transportation. Consultant hereby gives assurance that Consultant will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

More specifically, and without limiting the above general assurance, Consultant hereby gives the following specific assurances with respect to its Federal-aid Program:

1. That Consultant agrees that each "program" and each "facility" as defined in subsections 21.23 (e) and 21.23 (b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That Consultant shall insert the following notification in all solicitations for proposals for work or material subject to the Regulations made in connection with the Federal-aid Program and, in adapted form, in all proposals for negotiated agreements:

Consultant hereby notifies all proposers that it will affirmatively ensure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

3. That Consultant shall insert the clauses of Appendix A of this assurance in every agreement subject to the Act and the Regulations.

4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where Consultant receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

# Ghirardelli Associates, Inc.

## Exhibit G

6. That where Consultant receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That Consultant shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by Consultant with other parties:

Appendix C;

(a) For the subsequent transfer of real property acquired or improved under the Federal-aid Program; and

Appendix D;

(b) For the construction or use of or access to space on, over, or under real property acquired, or improved under the Federal-aid Program.

8. That this assurance obligates Consultant for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property of interest therein, or structures, or improvements thereon, in which case the assurance obligates Consultant or any transferee for the longer of the following periods:

(a) The period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) The period during which Consultant retains ownership or possession of the property.

9. That Consultant shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that Consultant, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the Act, the Regulations, this Assurance and the Agreement.

10. That Consultant agrees that County, the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this Assurance.

11. Consultant shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any State assisted agreement or in the administration of County's DBE Program or the requirements of 49 CFR Part 26. Consultant shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of State assisted agreements. County's DBE Program Implementation Agreement is incorporated by reference in this Agreement. Implementation of this Program is a legal obligation and failure to carry out

# Ghirardelli Associates, Inc.

## Exhibit G

its terms shall be treated as a violation of this Agreement. Upon notification to County of its failure to carry out its approved DBE Program Implementation Agreement, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).

These Assurances are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to County by State, acting for the U.S. Department of Transportation, and is binding on Consultant, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the Federal-aid Highway Program.

# Ghirardelli Associates, Inc.

## Appendix A to Exhibit G

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

(1) **Compliance with Regulations:** Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

(2) **Nondiscrimination:** Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix b of the ns.

(3) **Solicitations for Sub-agreements, including procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Consultant for work performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by Consultant of Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

(4) **Information and Reports:** Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to Consultant's books, records, accounts, other sources of information, and its facilities as may be determined by County, State or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to County, State or the FHWA as appropriate, and shall set forth what efforts Consultant was made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of Consultant's noncompliance with the nondiscrimination provisions of this Agreement, County shall impose such agreement sanctions as it, the State or the FHWA may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to Consultant under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
- (b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) **Incorporation of Provisions:** Consultant shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

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**Appendix B to Exhibit G**

**(Not Applicable)**

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**Appendix C to Exhibit G**

**(Not Applicable)**

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**Ghirardelli Associates, Inc.**

**Appendix D to Exhibit G**

**(Not Applicable)**

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Exhibit H

DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Type of Federal Action: 2. Status of Federal Action: 3. Report Type: 4. Name and Address of Reporting Entity: 5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: 6. Federal Department/Agency: 7. Federal Program Name/Description: 8. Federal Action Number, if known: 9. Award Amount, if known: 10. a. Name and Address of Lobby Entity (If individual, last name, first name, MI) b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI) 11. Amount of Payment (check all that apply) 12. Form of Payment (check all that apply): 13. Type of Payment (check all that apply) 14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11: 15. Continuation Sheet(s) attached: Yes No 16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. Signature: Print Name: Title: Telephone No.: Date: Authorized for Local Reproduction Standard Form - LLL

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

# Ghirardelli Associates, Inc.

## Exhibit H

### INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

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

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

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