

Vali Cooper & Associates, Inc.

Construction Support Services

for the

U.S. 50 HOV Lanes (Phase 2A) – Bass Lake Road to Cameron Park Drive Project

AGREEMENT FOR SERVICES # AGMT 11-53368

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 Vali Cooper & Associates, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 41 Washington Avenue, Point Richmond, California 94801, (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 Department of Transportation with construction inspection services for its U.S. 50 HOV Lanes (Phase 2A) – Bass Lake Road to Cameron Park Drive 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:

Consultant's services are to be provided specifically in support of County's U.S. 50 HOV Lanes (Phase 2A) – Bass Lake Road to Cameron Park Drive Project (hereinafter referred to as "Project").

Consultant shall perform all inspection services, work, and tasks required to accomplish the objectives set forth herein, and shall provide and make available Consultant's personnel, materials, equipment and services necessary to provide inspection support services, and other services generally including, but not limited to, those tasks identified in Exhibit A, marked "Scope of Work," incorporated herein and made by reference a part hereof.

Deliverables for the specific items of work to be provided under the Scope of Work shall be as specified therein, shall be prepared using the software described in this Article and shall be submitted in accordance with the timeframes specified in Exhibit A hereto. Modifications to the deliverables required, to the completion times specified in Exhibit A hereto or to the software requirements may only be made in accordance with the prior written approval of County's Contract Administrator.

If a submittal or deliverable is required to be an electronic file, Consultant shall produce the file using Microsoft Office 2003 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.

Consultant shall submit all deliverables to County's Contract Administrator in accordance with completion time schedules identified in Exhibit A hereto. 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 XVI, Default, Termination, and Cancellation herein.

ARTICLE II

Term: This Agreement shall become effective when fully executed 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 including all forms and reports required under the Disadvantaged Business Enterprise (DBE) provisions of this Agreement, County agrees to pay Consultant monthly in arrears. Payment shall be made within thirty (30) days following County receipt and approval of itemized invoices detailing the services rendered.

For the purposes hereof, the billing rates shall be in accordance with Exhibit B, marked "Fee Schedule," incorporated herein and made by reference a part hereof.

Neither mileage nor travel costs (i.e., overnight lodging, meals, parking, airfare, bridge tolls, and other per diem expenses) will be reimbursed as a direct cost for any services performed under this Agreement by Consultant.

Other direct costs 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.

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 marked, "Cost Proposal." The amounts indicated in Exhibit C, represent the composition of the total not-to-exceed budget for the various items of work. 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 items of work identified therein, subject to the Contract Administrator's written approval. In no event shall the "not-to-exceed" total amount of the Agreement be exceeded.

The total amount for services to be provided under the Scope of Work identified in Exhibit A hereto shall not exceed \$600,000 inclusive of all costs and expenses.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number both on their faces and on any enclosures or backup documentation. Consultant shall prepare and submit a fully executed "Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" 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 more fully described in ARTICLE XXXVIII, Disadvantaged Business Enterprise (DBE) Considerations and in ARTICLE XXXIX, DBE Participation herein.

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
Department of Transportation
2850 Fairlane Court
Placerville, California 95667
Attn.: Administration Division – Accounts Payable

or to such other location as County directs.

In the event that Consultant fails to deliver, in the formats specified, the deliverables, documentation 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, documentation are received, or proceed as set forth below in Article XVI, Default, Termination, and Cancellation herein.

ARTICLE IV

Standards for Work: Services rendered under this Agreement shall be performed in accordance with the guidelines set forth in the *Caltrans Construction Manual*, *Caltrans Local Assistance Procedures Manual* 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.

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 or upon request by the 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 V

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 Base Scope of Work for this Agreement. At a minimum, the QC/QA plan shall address the following work tasks to be performed by Consultant:

A. Conformance with the Plans and Specifications - Consultant is responsible for ensuring that the Projects are built in conformance to the lines and grades as shown on the Construction Contract plans for each Project, and to the specifications as defined in the Special Provisions for each Project.

B. Reports and Record Keeping - Consultant shall maintain thorough documentation of daily inspection efforts and testing for each Project. Records shall be maintained, which shall include all pertinent Project data and correspondence, progress photos, quantity calculations, progress estimates, change order quantity and cost data, and existing Project conditions prior to the beginning of construction of each Project. Records are to be maintained and filed in accordance with the *Caltrans Construction Manual*.

ARTICLE VI

Licenses: Consultant represents that it is duly certified or licensed in good standing by the

State of California to perform the services contemplated under this Agreement, and that Consultant shall maintain said certificates and licenses in good standing throughout the term of this Agreement.

ARTICLE VII

Ownership of Data: Upon completion or earlier termination of all services under 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 VIII

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 without prior written approval by County's Contract Administrator.

ARTICLE IX

Consultant's Project Manager: Consultant designates Keith Flaherty, Vice President Transportation, as its Project Manager for this Agreement. Consultant's Project Manager, or a 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 and operations, but not limited to (1) assigning qualified personnel to perform the required work and to prepare the deliverables required by the Agreement; (2) reviewing, monitoring, training and directing Consultant's personnel.

ARTICLE X

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 XI

Confidentiality:

A. Consultant shall maintain the confidentiality and privileged nature of all records, including billing records, 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, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Department of Transportation for the purpose of, and in the performance of, this Agreement.

B. Permission to disclose information on one occasion shall not authorize Consultant to further disclose such information, or disseminate the same on any other occasion.

C. Consultant shall not comment publicly to the press or any other media regarding 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 a Legislative committee.

D. Consultant shall not issue any news release or public relations item of any nature whatsoever, regarding work performed or to be performed under this Agreement without prior review of the contents thereof by County, and receipt of the 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. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

ARTICLE XII

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. For the purposes of this Agreement, no subconsultants are authorized. If this Agreement is later amended to allow Consultant to utilize subconsultants, that Amendment will specify that, (1) Consultant shall require each subconsultant, to the extent of the work to be performed by the subconsultant, to be bound to Consultant by all of the terms of this Agreement and to assume toward Consultant all of the obligations and responsibilities that Consultant, by this Agreement, assumes toward County; and (2) any subcontract entered into as a result of an Amendment to this Agreement allowing the use of subconsultants shall contain all of the required provisions of this prime Agreement.

ARTICLE XIII

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. 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.

ARTICLE XIV

Prevailing Wage: County requires Consultant's services on public works project(s) involving local, state and federal funds to which prevailing wage requirements may apply. As a consequence, Consultant 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 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 Department of Transportation. Changes, if any, to the general prevailing wage rates will be available at the same location.

The 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 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 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 shall keep accurate payroll records. Certified copies of all payroll records shall be made available for inspection at all reasonable hours at Consultant's principal office.

ARTICLE XV

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 may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE XVI

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 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 total amount of the contract. 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. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

ARTICLE XVII

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:

With a Copy to:

County of El Dorado
Department of Transportation
2441 Headington Road
Placerville, California 95667

County of El Dorado
Department of Transportation
2850 Fairlane Court
Placerville, California 95667

Attn.: John Kahling, P.E.
Deputy Director, Engineering
Construction Division

Attn.: Janel Gifford, P.E.
Office Engineer/Contract Services Unit

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Vali Cooper & Associates, Inc.
41 Washington Avenue
Point Richmond, California 94801

Attn.: Agnes Weber, P.E., President

or to such other location as Consultant directs.

ARTICLE XVIII

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 XIX

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.
- 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 30-day prior written notice to County; and
 - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all general and excess liability insurance policies.

- 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.

ARTICLE XX

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 XXI

Interest of Consultant: Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire 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 hereby 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, if any are authorized herein, 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.

Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within any construction contract associated with 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 XXII

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 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 XXIII

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 Data Record Form with County.

ARTICLE XXIV

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 prior to beginning work under this Agreement and at all times during the term of this Agreement.

ARTICLE XXV

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 XXVI

Year 2000 Compliance: Consultant agrees that all hardware and software developed, distributed, installed, programmed, or employed as a result of this order will comply with ISO 9000 date format to correctly manipulate and present date-sensitive data.

Upon delivery of product and thereafter, the date and date logic component shall effectively and efficiently operate using a four-digit year.

Upon written notification by County of any hardware or software failure to comply with ISO 9000 date format, Consultant will replace or correct the failing component with compliant hardware or software immediately, at no cost to County.

ARTICLE XXVII

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 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 XXVIII

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 41 Washington Avenue, Point Richmond, California 94801 is acceptable to County.

ARTICLE XXIX

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.
- D. Notwithstanding any other provision of this Agreement to the contrary, neither mileage nor travel and subsistence (per diem) expenses (i.e., overnight lodging, meals, parking, airfare, bridge tolls, or other such expenses) will be separately reimbursed for any services performed under this Agreement by Consultant or by any authorized subconsultants. Consultant's hourly rates indicated in Exhibit B hereto and subconsultants' hourly rates are inclusive of charges for vehicle and mileage expenses.
- 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 XXX

Audit and Inspection of Records: Consultant shall maintain and make available to the FHWA, the State, 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 XXVII, Compliance with Federal, State and Local Agency Requirements and ARTICLE XXIX, 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 XXXI

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 by the United States Department of Transportation, the FHWA, Comptroller General of the United States, the State, the California State Auditor and County or their duly authorized representatives for at least three (3) 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 XXXII

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 D, marked "Certification of Consultant," and County has duly executed Exhibit E, marked "Certification of Local Agency," both of which exhibits are incorporated herein and made by reference a part hereof.

ARTICLE XXXIII

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 IV, Standards for Work above.

ARTICLE XXXIV

Documentation: Consultant shall document the results of its work to the satisfaction of County and if applicable, the State 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 XXXV

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 XXXVI

Copyrights: County may permit copyrighting reports or other Agreement products. If copyrights are permitted, the FHWA and State 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 government purposes. Consultant shall incorporate this provision in its subcontracts, if any, in excess of \$25,000.

ARTICLE XXXVII

Consultant's Endorsement on PS&E/Other Data: If applicable, the responsible Consultant/Engineer shall sign all plans, specifications, estimates and all engineering data furnished by it and where appropriate, indicate its registration number.

ARTICLE XXXVIII

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. If this Agreement has an Underutilized DBE (UDBE) goal, Consultant must meet the UDBE goal by using certified UDBEs as subconsultants or document a good faith effort to meet the goal. **For the purposes of this Agreement, the UDBE goal shall be 0.00%.**

ARTICLE XXXIX
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. A "Local Agency Proposer-DBE Information (Consultant Contracts)" form, attached hereto as Exhibit F and is incorporated herein and made by reference a part hereof, shall be completed by Consultant and submitted upon contract execution.
- B. DBE 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 or subrecipient 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, if any, entered into as a result of this Agreement shall contain all of the provisions of this Article.

ARTICLE XL
Nondiscrimination:

- A. In connection with its performance under this Agreement, Consultant 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, and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex; Consultant shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 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 incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Consultant, its employees, subconsultants and representatives shall give written notice of their obligations under this clause as required by law.

- 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 public funds. Consultant agrees to comply with the requirements of Exhibit G, marked "Fair Employment Practices Addendum" and the requirements of Exhibit H, marked "Nondiscrimination Assurances," including Appendices A through D to Exhibit H, both of which exhibits and the four Appendices to Exhibit H 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 G and H and Appendices A through D to Exhibit H 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 XLI

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 XLII

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, Part 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.

ARTICLE XLIII

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; the 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 I 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 XLIV

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 Director of Transportation, 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 individual Task Order issued pursuant to this Agreement, Consultant may request review by the Director of Transportation 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 XLV

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 the Consultant from full and timely performance, in accordance with the terms of this Agreement.

ARTICLE XLVI

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

ARTICLE XLVII

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 XLVIII

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. Consultation or testimony 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 XLIX

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 L

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 LI

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 this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE LII

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 LIII

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 LIV

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is John Kahling, P.E., Deputy Director, Engineering, Construction Division, Department of Transportation, or successor.

ARTICLE LV

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 LVI

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 LVII

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.

Contract Administrator Concurrence:

By: _____

John Kahling, P.E.
Deputy Director, Engineering
Construction Division
Department of Transportation

Dated: _____

Requesting Department Concurrence:

By: _____

Kimberly A. Kerr, Interim Director
Department of Transportation

Dated: _____

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

-- COUNTY OF EL DORADO --

By: _____

Dated: _____

Board of Supervisors
"County"

Attest:
Suzanne Allen de Sanchez
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

-- VALI COOPER & ASSOCIATES, INC. --

By: _____
Agnes Weber, P.E.
President
"Consultant"

Dated: _____

By: _____
Marion Ross
Chief Financial Officer

Dated: _____

Vali Cooper & Associates, Inc.

Exhibit A

Scope of Work

PROJECT DESCRIPTION:

This scope of work provides for construction support services for the U.S. 50 HOV Lanes (Phase 2A) – Bass Lake Road to Cameron Park Drive Project.

DELIVERABLES:

County's Contract Administrator (CA) will issue Consultant a Notice to Proceed either verbally or via email.

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 CA. 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 CA's current address is 2441 Headington Road, Placerville, CA 95667 and the current email address is john.kahling@edcgov.us. Changes to County's CA's physical or email address will be transmitted to Consultant in accordance with the provisions of ARTICLE XVII, Notice to Parties, of this Agreement.

Unless otherwise directed by County's CA, the files for the Project will be located at the temporary field office (construction office) that will be provided by County's Construction Contractor (Contractor).

ITEM OF WORK A. - PRE-CONSTRUCTION SERVICES

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

1) Setting Up Project Files

Consultant shall set up Project files in accordance with the current edition of the *Caltrans Construction Manual* and as directed by County. County will provide all binders, dividers, and other materials needed to complete this task.

Deliverables and Schedule: Consultant shall place the completed filing binders in County's construction office prior to the first working day of the construction contract.

2) Documentation of Pre-Construction Conditions:

Consultant shall document pre-construction conditions using digital photographs and digital 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 still camera and a digital video recorder.

Deliverables and Schedule: Consultant shall place a CD-Rom with all digital photographs and digital video recordings in the Project files before the first working day of the construction contract. Consultant shall store all digital photographs and digital video recordings on the County-provided computer for the duration of the Project.

3) Pre-Construction Meeting:

Consultant personnel shall attend a pre-construction meeting with Contractor to be held at County's Headington Road office in Placerville prior to the start of construction activities on the Project.

Deliverables and Schedule: There are no deliverables associated with this Item of Work. County's CA will notify Consultant of pre-construction meeting date via email or phone call.

ITEM OF WORK B. - CONSTRUCTION INSPECTION

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

1) Construction Inspection:

Consultant shall utilize on-site inspectors to check the quality and quantity of the work performed by Contractor, any subcontractors, and any utility companies. Consultant shall ensure Contractor 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. The on-site inspectors shall prepare Daily Inspection Reports each day that Contractor 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 Contractor'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 and Schedule: Consultant shall provide the Daily Inspection Report form to County's CA 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) Record Drawings:

During construction, Consultant shall compile record drawings 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 record drawings or by placing supplemental or replacement sheets included with the CCOs directly into the record drawings.

Deliverables: Consultant shall keep record drawings on file in the Project files and shall update monthly.

3) Digital Photography:

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

Deliverables and Schedule: Consultant shall save 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.

ITEM OF WORK C. - CONSTRUCTION ADMINISTRATION

In accordance with County's CA's directives and the current edition of the *Caltrans Construction Manual*, Consultant shall provide construction administration services including, but not limited to, the following:

1) Records Maintenance:

Consultant shall maintain Project files in an organized, efficient, logical manner that is consistent with County's CA's directives and the current edition of the *Caltrans Construction Manual*.

Deliverables and Schedule: 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.

2) Payment Recommendations:

In accordance with the construction contract documents, County's CA's directives, and the current edition of the *Caltrans Construction Manual*, Consultant shall assist with monthly progress pay estimates to be used by County to pay Contractor. Consultant shall create quantity calculation sheets for each contract item that show the calculations, measurements, or estimates made to support payment.

Deliverables and Schedule: Consultant shall submit quantity calculation sheets to County's CA on or before the 20th of every month. If the 20th falls on a weekend or a holiday, then Consultant shall submit the quantity calculation sheets to County's CA on the first working day thereafter.

3) Submittal Management:

As submittals are received from 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 directed by County's CA, Consultant shall review the submittal and respond to Contractor in a timely manner consistent with the construction contract documents, County's CA's directives, and the current edition of the *Caltrans Construction Manual*. Alternatively, when directed by County, Consultant shall perform an initial review for submittal completeness, log the submittal, and then forward the submittal to the party responsible for review of the submittal or return it to Contractor for modification and resubmittal.

Deliverables and Schedule: 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. When Consultant is responsible for submittal review, Consultant shall respond via email or letter (as appropriate and as directed by County's CA) within the time frames 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 Contractor.

4) Requests for Information (RFIs):

As RFIs are received from Contractor, Consultant shall enter the date received into a 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 directed by County's CA, 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 Contractor for modification and resubmittal. When directed by County's CA to review Contractor RFIs, Consultant shall review the RFI and respond to Contractor in accordance with the deliverables and schedule.

Deliverables and Schedule: 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 log all RFIs within one (1) day of receipt from Contractor. When directed by County's CA to review Contractor RFIs, Consultant shall review the RFI and respond to Contractor via email or letter (as appropriate and as directed by County's CA) within five (5) working days of RFI receipt from Contractor.

5) Issue-Specific Meetings:

Consultant shall attend issue-specific meetings with County when requested by County.

Deliverables and Schedule: There are no deliverables associated with this Item of Work.

ITEM OF WORK D. - CONSTRUCTION SCHEDULE ANALYSIS

Consultant shall assist County's CA to ensure Contractor compliance with all schedule requirements contained in the construction contract documents. Consultant shall perform technical review of Contractor's baseline schedule, update schedules, as-built schedules, time impact analyses, and any other Contractor submittals related to Project schedule. Consultant shall review schedules for issues including, but not limited to, the following: compliance with construction contract documents, inappropriate activity durations, inappropriate logic ties, insufficient or excessive numbers of activities, intermediate milestones, and ensuring update schedules accurately reflect the manner in which Contractor is constructing the Project. Consultant shall meet monthly with County to discuss Contractor's monthly updated schedule. This meeting shall occur after Consultant has received Contractor's updated schedule from County and reviewed said schedule.

Deliverables and Schedule: Consultant shall transmit a summary of the review of schedule submittals to County via email or letter within ten (10) days of receipt of schedule submittals from County.



Vali Cooper & Associates, Inc.

Exhibit B

Fee Schedule

<u>Classification</u>	<u>Hourly Billing Rate</u>	<u>Overtime Billing Rate</u>	<u>Premium Billing Rate</u>
-----------------------	------------------------------------	--------------------------------------	-------------------------------------

Project Manager	\$190	n/a	n/a
Senior Construction Inspector	\$131	\$154	\$182
Scheduling Specialist	\$162	n/a	n/a

Explanation of Rates:

- All rates provide all compensation for work performed under this Agreement, including, but not limited to, direct labor, benefits, all overhead costs, profit, vehicles, mileage, mobile phones, standard computer equipment, digital cameras, employee safety equipment, and small field tools such as hand levels and tape measures.
- Hourly Billing Rates include the first eight (8) hours Monday through Friday. Overtime Billing Rates include any hours after the first eight (8) hours, up to twelve (12) hours per day Monday through Friday, and the first eight (8) hours on Saturday. Premium Billing Rates include any hours after the first twelve (12) hours per day Monday through Friday, any hours after the first eight (8) hours on Saturday and all hours on Sunday.
- Indirect Expenses:
Other Direct Costs, including, but not limited to, office supplies Actual Cost

Vali Cooper & Associates, Inc.

Exhibit C

Cost Proposal*

Scope of Work

Item of Work A.	Pre-Construction Services	\$	20,000.00
Item of Work B.	Construction Inspection	\$	500,000.00
Item of Work C.	Construction Administration	\$	20,000.00
Item of Work D.	Construction Schedule Analysis	\$	<u>60,000.00</u>
		Labor Total \$	600,000.00
		Total Proposed Cost Estimate \$	600,000.00

*All expenses and their distribution among Items of Work are estimates only. This Exhibit represents the composition of the total not-to-exceed budget for the various Items of Work identified herein. In the performance of the scope of services to be provided under this Agreement, Consultant may request to reallocate the amounts listed above among the various Items of Work identified herein, subject to the Contract Administrator's written approval. In no event shall the total amount of the Agreement be exceeded.

Vali Cooper & Associates, Inc.

Exhibit D

CERTIFICATION OF CONSULTANT

I HEREBY CERTIFY that I am the President and duly authorized representative of the firm of Vali Cooper & Associates, Inc. whose address is 41 Washington Avenue, Point Richmond, California 94801, 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 Contract, 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)

Agnes Weber, P.E.
President

Vali Copper & Associates, Inc.

Exhibit E

CERTIFICATION OF LOCAL AGENCY

I HEREBY CERTIFY that I am the Interim Director of Transportation of the County of El Dorado, and that the consulting firm of Vali Cooper & Associates, Inc. or its representative has not been required (except as herein expressly stated), directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- (a) employ, retain, agree to employ or retain, any firm or person; or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation, or consideration of any kind.

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)

Kimberly A. Kerr, Interim Director
Department of Transportation

Vali Cooper & Associates, Inc.

Exhibit F

Local Agency Proposer DBE Information (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ATTACHED HERETO				
LOCAL AGENCY: <u>El Dorado County Department of Transportation</u>		LOCATION: <u>El Dorado County</u>		
PROJECT DESCRIPTION: <u>U.S. 50 HOV Lanes (Phase 2A) – Bass Lake Road to Cameron Park Drive Project</u>				
TOTAL CONTRACT AMOUNT: <u>\$600,000</u>				
PROPOSER'S NAME: <u>Vali Cooper & Associates, Inc.</u>				
WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a DBE)	DBE CERT. NO. AND EXPIRATION DATE	NAME OF EACH DBE (Must be certified at the time proposals are due - include DBE address and phone number)	DOLLAR AMOUNT OF EACH DBE
For Local Agency to Complete: Local Agency Contract Number: <u>(Consultant AGMT#):11-53368</u> Federal Aid Project Number: <u>CML-5925 (102)</u> Federal Share: 0.00% Contract Award Date: _____ Local Agency certifies that the DBE certification(s) has been verified and all information is complete and accurate. <u>Janel Gifford</u> _____ Print Name Signature Date Local Agency Representative (Area Code) Telephone Number: <u>(530) 621-5974</u>			Total Claimed DBE Participation \$ _____ Total % of DBE _____ % OF TOTAL CONTRACT AMOUNT	
For Caltrans Review: _____ Print Name Signature Date Caltrans District Local Assistance Engineer			Signature of Proposer _____ Date (Area Code) Tel. No. _____ Person to Contact (Please Type or Print) _____	
			Local Agency Proposer – DBE Information (Consultant Contracts) (Rev 6/27/09)	

Distribution: Original – Local agency files

Exhibit F

**INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE INFORMATION
(CONSULTANT CONTRACTS) FORM (Revised 6/27/09)**

TO SUCCESSFUL PROPOSER: EXCEPT AS NOTED BELOW FILL IN THE
INFORMATION ON THE DBE INFORMATION FORM AND SUBMIT FORM TO
COUNTY AS NOTED BELOW

The form requires specific information regarding the consultant agreement: Local Agency, Location, Project Description, Total Contract Amount, and Successful Proposer's Name.

The form has a column for the Work Item Number and Description or Services to be Subcontracted to DBEs. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces. The DBE shall provide a certification number to the prime consultant. Enter the DBE prime consultant, as applicable, and subconsultant certification numbers. The form has a column for the Name of Certified DBEs to perform the work (must be certified on the date the proposal is due and include DBE address and phone number).

Enter the Total Claimed DBE Participation dollar amount as the total of all items in the Dollar Amount of Each DBE column. (If 100% of item is not to be performed by the DBE, describe the exact portion of time to be performed by the DBE in this column.) See Notice to Proposers Disadvantaged Business Enterprise (DBE) Information to determine how to count the participation of DBE firms. Enter the Total % of DBE as a percentage of the total contract amount.

Local Agency Proposer DBE Information (Consultant Contracts) form must be signed and dated by the successful proposer and submitted within two days of completion of negotiations with the County on the final contract amount. Also list a phone number in the space provided and print the name of the person to contact.

For the successful proposer, local agencies should complete the Contract Number, Federal-aid Project Number, Federal share, and Contract Award Date fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of agreement execution. Failure to submit a completed and accurate form within the 15-day time period may result in the de-obligation of funds on this project.

District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the District Local Assistance Engineer signs and dates the form.

FINAL REPORT - UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE), FIRST-TIER SUBCONTRACTORS

CEM-2402F (REV 02/2008)

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

CONTRACT NUMBER		COUNTY	ROUTE	POST MILES	FEDERAL AID PROJECT NUMBER	ADMINISTERING AGENCY			CONTRACT COMPLETION DATE		
PRIME CONTRACTOR				BUSINESS ADDRESS					ESTIMATED CONTRACT AMOUNT \$		
ITEM NO.	DESCRIPTION OF WORK PERFORMED AND MATERIALS PROVIDED	COMPANY NAME AND BUSINESS ADDRESS	DBE CERT. NUMBER	CONTRACT PAYMENTS						DATE WORK COMPLETE	DATE OF FINAL PAYMENT
				NON-DBE	DBE	BA UDBE	APA UDBE	NA UDBE	W UDBE		
				\$	\$	\$	\$	\$	\$		
				\$	\$	\$	\$	\$	\$		
				\$	\$	\$	\$	\$	\$		
				\$	\$	\$	\$	\$	\$		
				\$	\$	\$	\$	\$	\$		
				\$	\$	\$	\$	\$	\$		
				\$	\$	\$	\$	\$	\$		
				\$	\$	\$	\$	\$	\$		
				\$	\$	\$	\$	\$	\$		
				\$	\$	\$	\$	\$	\$		
ORIGINAL COMMITMENT			TOTAL	\$	\$	\$	\$	\$	\$		
\$ _____											

BA - Black American
 APA - Asian-Pacific Islander
 NA - Native American
 W - Woman

List all First Tier Subcontractors, Disadvantaged Business Enterprises (DBEs) and underutilized DBEs (UDBEs) regardless of tier, whether or not the firms were originally listed for goal credit. If actual UDBE utilization (or item of work) was different than that approved at time of award, provide comments on back of form. List actual amount paid to each entity.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

CONTRACTOR REPRESENTATIVE'S SIGNATURE	BUSINESS PHONE NUMBER	DATE
---------------------------------------	-----------------------	------

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

RESIDENT ENGINEER'S SIGNATURE	BUSINESS PHONE NUMBER	DATE
-------------------------------	-----------------------	------

COPY DISTRIBUTION - Caltrans contracts: **Original** - District Construction **Copy** - Business Enterprise Program **Copy** - Contractor **Copy** - Resident Engineer

COPY DISTRIBUTION - Local Agency contracts: **Original** - District Local Assistance Engineer (submitted with the Report of Expenditures) **Copy** - District Local Assistance Engineer **Copy** - Local Agency file

FINAL REPORT - UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE), FIRST-TIER SUBCONTRACTORS

CEM-2402F (REV 02/2008)

The form requires specific information regarding the construction project: Contract Number, County, Route, Post Miles, Federal Aid Project number, the Administering Agency, the Contract Completion Date and the Estimated Contract Amount. It requires the prime contractor's name and business address. The focus of the form is to describe who did what by contract item numbers and descriptions, asking for specific dollar values of item work completed broken down by subcontractors who performed the work, both DBE and non-DBE work forces. DBE prime contractors are required to show the date of work performed by their own forces along with the corresponding dollar value of work.

The form has a column to enter the Contract Item No. (or Item No's) and description of work performed or materials provided, as well as a column for the subcontractor name and business address. For those firms who are DBE, there is a column to enter their DBE Certification Number. The DBE should provide their Certification Number to the contractor and notify the contractor in writing with the date of the decertification if their status should change during the course of the project.

The form has six columns for the dollar value to be entered for the item work performed by the subcontractor.

The Non-DBE column is used to enter the dollar value of work performed for firms who are not certified DBE.

The decision of which column to be used for entering the DBE dollar value is based on what program(s) status the firm is certified. This program status is determined by the California Unified Certification Program by ethnicity, gender, ownership and control issues at time of certification. To confirm the certification status and program status, access the Department of Transportation Civil Rights website at <http://www.dot.ca.gov/hq/bep> or by calling (916) 324-1700 or the toll free number at (866) 810-6346.

Based on this DBE Program status, the following table depicts which column to use:

DBE Program Status	Column to be used
If program status shows DBE only with no other programs listed	DBE
If program status shows DBE, Black American	BA UDBE
If program status shows DBE, Asian-Pacific Islander	APA UDBE
If program status shows DBE, Native American	NA UDBE
If program status shows DBE, Woman	W UDBE

If a contractor performing work as a DBE on the project becomes decertified and still performs work after their decertification date, enter the total value performed by this contractor under the appropriate DBE identification column.

If a contractor performing work as a non-DBE on the project becomes certified as a DBE, enter the dollar value of all work performed after certification as a DBE under the appropriate identification column.

Enter the total of each of the six columns on Form CEM-2402(F).

Any changes to DBE certification must also be submitted on Form CEM-2403(F).

Enter the Date Work Completed as well as the Date of Final Payment (the date when the prime contractor made the "final payment" to the subcontractor for the portion of work listed as being completed).

The contractor and the resident engineer sign and date the form indicating that the information provided is complete and correct.

Vali Cooper & Associates, Inc.

Exhibit G

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Vali Cooper & Associates, Inc. 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. Vali Cooper & Associates, Inc. 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. Vali Cooper & Associates, Inc. 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. Vali Cooper & Associates, Inc., its contractor(s) and all subcontractors 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 Vali Cooper & Associates, Inc.'s contractors and all subcontractors 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. Vali Cooper & Associates, Inc. shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. Vali Cooper & Associates, Inc. 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 Vali Cooper & Associates, Inc. was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Vali Cooper & Associates, Inc. has violated the Fair Employment Practices Act and had issued an order under Labor Code 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 Vali Cooper & Associates, Inc. and by the surety under the performance bond, if any, and County may deduct from any moneys due or thereafter may become due to Vali Cooper & Associates, Inc. the difference between the price named in the Agreement and the actual cost thereof to County to cure Vali Cooper & Associates, Inc.'s breach of this Agreement.

Vali Cooper & Associates, Inc.

Exhibit H

NONDISCRIMINATION ASSURANCES

Vali Cooper & Associates, Inc. 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. Vali Cooper & Associates, Inc. hereby gives assurance that Vali Cooper & Associates, Inc. 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, Vali Cooper & Associates, Inc. hereby gives the following specific assurances with respect to its Federal-aid Program:

1. That Vali Cooper & Associates, Inc. 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 Vali Cooper & Associates, Inc. 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:

Vali Cooper & Associates, Inc. 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 Vali Cooper & Associates, Inc. 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.

Vali Cooper & Associates, Inc.

Exhibit H

5. That where Vali Cooper & Associates, Inc. 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.

6. That where Vali Cooper & Associates, Inc. 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 Vali Cooper & Associates, Inc. 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 Vali Cooper & Associates, Inc. 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 Vali Cooper & Associates, Inc. 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 Vali Cooper & Associates, Inc. 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 Vali Cooper & Associates, Inc. retains ownership or possession of the property.

9. That Vali Cooper & Associates, Inc. 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 Vali Cooper & Associates, Inc., 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 Vali Cooper & Associates, Inc. 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.

Vali Cooper & Associates, Inc.

Exhibit H

11. Vali Cooper & Associates, Inc. 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. Vali Cooper & Associates, Inc. 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 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 [Vali Cooper & Associates, Inc.](#), other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the Federal-aid Highway Program.

Vali Cooper & Associates, Inc.

Appendix A to Exhibit H

During the performance of this Agreement, Vali Cooper & Associates, Inc., 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 Regulations.

(3) **Solicitations for Sub-agreements, including procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Consultant for work 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.

Vali Cooper & Associates, Inc.

Appendix B to Exhibit H

(NOT USED)

Vali Cooper & Associates, Inc.

Appendix C to Exhibit H

(NOT USED)

Vali Cooper & Associates, Inc.

Appendix D to Exhibit H

(NOT USED)

Vali Cooper & Associates, Inc.

Exhibit I

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. (a) 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.
(b) 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).
11. 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.
12. 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.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. 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.
15. Check whether or not a continuation sheet(s) is attached.
16. 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.