

ORIGINAL

**HDR Construction Control Corporation
On-Call Construction Support Services**

AGREEMENT FOR SERVICES #3562

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 HDR Construction Control Corporation, a Nebraska corporation duly qualified to conduct business in the State of California, whose principal place of business is 1917 South 67th Street, Omaha, Nebraska 68106-2973 and whose local office address is 2365 Iron Point Road, Suite 300, Folsom, California 95630 (hereinafter referred to as "CONSULTANT");

RECITALS

WHEREAS, COUNTY has determined that it is necessary to obtain a consultant to assist its Department of Transportation with on-call construction support services;

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 conform 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 agrees to furnish personnel, subconsultants, materials, equipment, grade verification, and services necessary to perform various on-call construction support services. Services shall include, but not be limited to, those tasks as identified in Exhibit A, marked "Scope of Work," incorporated herein and made by reference a part hereof, or as identified in the individual Task Orders or Work Orders, as applicable, to be issued in accordance with this Agreement.

CONSULTANT's services are to be provided specifically in support of projects included in COUNTY's Capital Improvement Program and generally in support of other COUNTY activities as required, including emergency projects. Before proceeding with any work under this Agreement, the parties will identify the specific services to be provided for each assignment in individual Task Orders or Work Orders, as applicable.

The specific services for each assignment shall be determined at a meeting or telephone conference between CONSULTANT and COUNTY's Contract Administrator, or designee, to discuss the needs, applicable standards, required deliverables, specific CONSULTANT staff, subconsultants, if applicable, any necessary permits, and any task-related mileage budget, if applicable, on a task-by-task basis. As applicable, Disadvantaged Business Enterprise (DBE) requirements will be discussed at the meeting or telephone conference and COUNTY's Contract Administrator will provide CONSULTANT with the necessary DBE forms and information for use and/or submittal with CONSULTANT's Task Order/Work Order proposal or CONSULTANT's final invoice. Within an agreed timeframe as determined by COUNTY's Contract Administrator, following the meeting or telephone conference, CONSULTANT shall provide COUNTY's Contract Administrator with a written scope of work, a schedule including a list of tasks with completion dates, a target completion date for the overall scope of work, and a not-to-exceed cost itemization to complete the work (resulting in a Task Order or a Work Order, as applicable), which shall require written approval, authorization, and written notification to proceed from COUNTY's Contract Administrator, prior to commencement of the work.

For emergency and unanticipated/unplanned construction support services, the specific services for each assignment shall be determined at a pre-service meeting, telephone conference, or by email between CONSULTANT and COUNTY's Contract Administrator or COUNTY's Contract Administrator's designee to discuss the needs, applicable standards, required deliverables, specific CONSULTANT staff, subconsultants (if required), and estimated costs associated with each specific service on an item-by-item basis. At the conclusion of the pre-service meeting, telephone conference, or email exchange, COUNTY's Contract Administrator will provide CONSULTANT with verbal authorization to proceed. COUNTY's Contract Administrator shall follow up the verbal authorization with a written authorization to proceed in the form of a Work Order, to CONSULTANT via email or fax, with the specific emergency or unanticipated/unplanned services to be performed.

COUNTY's Contract Administrator will issue a written Task Order for work assignments where the not-to-exceed cost itemization is greater than \$50,000. COUNTY's Contract Administrator will issue a written Work Order for work assignments where the not-to-exceed cost itemization is \$50,000 or less, with the exception of emergency and unanticipated/unplanned construction support services.

CONSULTANT's responsibilities for compliance with DBE requirements are described in ARTICLE XLV, Disadvantaged Business Enterprise (DBE) Considerations and in ARTICLE XLVI, Disadvantaged Business Enterprise (DBE) Participation, herein. No Task Order or Work Order shall be issued under this Agreement until the required DBE forms have been received and approved by COUNTY's Contract Administrator.

CONSULTANT shall provide COUNTY's Contract Administrator with the names and titles of CONSULTANT's representatives that are authorized to bind CONSULTANT by

signing Task Orders and Work Orders and Task Order and Work Order Amendments on CONSULTANT's behalf. CONSULTANT's notification of individuals authorized to execute Task Orders and Work Orders and Task Order and Work Order Amendments on CONSULTANT's behalf shall be communicated to COUNTY in accordance with the provisions of ARTICLE XXIX, Notice to Parties, of this Agreement.

COUNTY shall review CONSULTANT's progress at key points as specified in each Task Order or Work Order. Milestone reviews shall be performed for the specific products and deliverables listed in each Task Order and/or Work Order. Milestones may only be changed by written agreement (may consist of an email) between COUNTY's Contract Administrator, or designee and CONSULTANT.

If a submittal or Task Order or Work Order deliverable is required to be an electronic file, CONSULTANT shall produce the file using Microsoft (MS) Office 2010 applications (specifically, MS Word, MS Project, and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). All digital photographs shall be submitted on CD-ROMs in jpeg format with a minimum resolution of 2816 X 2112. Electronic AutoCAD 2010 or AutoCAD Civil 3D 2010 format shall be used for submittal of plans or other similar documents as specified by COUNTY's Contract Administrator. All deliverables shall be submitted in language, format, and design that are compatible with and completely transferable to COUNTY's computer and engineering applications (e.g., Autodesk/Civil 3D 2010 and ASCII file formats) 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 the individual Task Orders or Work Orders issued pursuant to this Agreement. Failure to submit the required deliverables in the format required shall be grounds for termination of the Agreement, as provided in ARTICLE VI, Termination, herein.

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

ARTICLE II

Compensation for Services: For services provided herein, including all of the deliverables described in individual Task Orders and Work Orders issued pursuant to this Agreement, and including all of the forms and reports required under the DBE provisions of this Agreement; and including the progress reports required by ARTICLE III, Progress Reports, below, COUNTY agrees to pay CONSULTANT in arrears. Payment shall be made within forty-five (45) days following COUNTY's receipt and approval of itemized invoices detailing services rendered.

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

Other direct costs including special reproductions, delivery charges, and other outside services authorized herein, shall be invoiced at CONSULTANT's cost, 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.

Any reimbursements for mileage expenses, if any, will only be made if such expenses are included in the Cost Proposal of an approved and fully executed Task Order or Work Order issued pursuant to this Agreement. For the purposes of this Agreement, travel and per diem costs will be reimbursed only for source inspection services performed in the Tahoe Basin by Consultant or any authorized subconsultant. Travel costs (i.e., overnight lodging, meals, parking, airfare, bridge tolls and other per diem expenses) will not be reimbursed as a direct cost for any services performed under this Agreement outside of the Tahoe Basin by CONSULTANT or by any authorized subconsultants. The total amount payable by COUNTY for an individual Task Order or Work Order shall not exceed the amount agreed to in the Task Order or Work Order, unless COUNTY's Contract Administrator and CONSULTANT amend the Task Order or Work Order in writing and prior to the performance of the work.

Cost Proposals shall be submitted for each Task Order and/or Work Order. Cost Proposals are subject to an audit or Certified Public Accountant Indirect Cost Audit Workpaper Review and are more fully described in ARTICLE IX, Audit Review Procedures.

In accordance with ARTICLE XII, State Prevailing Wage Rates, CONSULTANT shall provide COUNTY's Contract Administrator with certified payroll for applicable personnel for the period for which payment is requested and such certified payroll shall accompany each invoice submitted. The certified payroll shall contain information related only to the applicable project. No invoice shall be paid until the certified payroll is submitted. CONSULTANT shall keep payroll records in accordance with California Labor Code Section 1776.

ARTICLE III

Progress Reports: Upon issuance of a Task Order or Work Order, CONSULTANT shall submit written progress reports to COUNTY's Contract Administrator at intervals that are commensurate with the requirements of the items of work and tasks being performed and based upon a mutually agreeable schedule. At a minimum, CONSULTANT shall submit progress reports once per month. The reports shall be sufficiently detailed for COUNTY's Contract Administrator to determine if CONSULTANT is performing to expectations and is on schedule, to provide communication of interim findings, and to afford occasions for airing difficulties or special circumstances encountered so that remedies can be developed. COUNTY's review of these reports will ensure that CONSULTANT's work meets a level of

acceptability as determined by COUNTY's Contract Administrator, and CONSULTANT shall be required to modify its work as necessary to meet that level of acceptability as defined by COUNTY's Contract Administrator. Separate detail shall be provided for each ongoing Task Order or Work Order. Progress reports shall include the total number of hours worked by CONSULTANT and any authorized subconsultants and shall include descriptions of the tasks and work performed, including a description of any deliverables submitted during the reporting period and the anticipated tasks, work, and deliverables proposed for the subsequent reporting period. Any invoices submitted by CONSULTANT for payment under the terms of this Agreement shall include copies of the progress reports that relate to the services being billed on those invoices.

ARTICLE IV

Performance Period:

- A. This Agreement shall go into effect upon execution, contingent upon approval by COUNTY, and CONSULTANT shall commence work after notification to proceed by COUNTY's Contract Administrator. The Agreement shall end three (3) years thereafter, unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on COUNTY until the Agreement is fully executed and approved by COUNTY.
- C. The period of performance for each specific project shall be in accordance with the Task Order or Work Order for that project. If work on a Task Order or Work Order is in progress on the expiration date of this Agreement, the terms of the Agreement shall be extended by written contract amendment prior to expiration of the Agreement.

ARTICLE V

Allowable Costs and Payments:

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's Cost Proposal of an approved and fully executed Task Order or Work Order. The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Agreement.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the cost proposal of an approved and fully executed Task Order or Work Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders or Work Orders. For Federal Emergency Management Act (FEMA) funded projects, a Request for Proposal will be issued for a specific project to CONSULTANT and all other consultants with whom COUNTY has on-call agreements for the scope of work covered by the specific project. Through that

competitive proposal procedure limited to existing on-call agreements, COUNTY will select the most qualified consultant and negotiate, develop, and execute a Task Order or Work Order pursuant to ARTICLE I.

- D. After a project to be performed under this Agreement is identified by COUNTY, COUNTY will prepare a draft Task Order or Work Order, less the cost estimate. A draft Task Order or Work Order will identify the scope of services, expected results, project deliverables, period of performance, and project schedule and will designate a COUNTY Project Coordinator. The draft Task Order or Work Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order or Work Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost, the finalized Task Order or Work Order shall be signed by both COUNTY and CONSULTANT.
- E. Task Orders or Work Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's Cost Proposal of an approved and fully executed Task Order or Work Order.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal of an approved and fully executed Task Order or Work Order.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from COUNTY's Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order or Work Order will be made in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this Agreement has been approved by COUNTY and notification to proceed has been issued by COUNTY's Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this Agreement.
- J. A Task Order or Work Order is of no force or effect until returned to COUNTY and signed by an authorized representative of COUNTY. With the exception of emergency Task orders or Work Orders under ARTICLE I, no expenditures are authorized on a project and work shall not commence until a Task Order or Work Order for that project has been executed by COUNTY.
- K. CONSULTANT will be reimbursed as promptly as fiscal procedures will permit upon receipt by COUNTY's Contract Administrator of itemized invoices. Separate invoices itemizing all costs are required for all work performed under each Task Order or Work Order. Invoices shall be submitted no later than 45 calendar days

after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order or Work Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number, project title, Task Order or Work Order number, the Work Breakdown Structure (WBS) Activity Identification Codes (Activity IDs) applicable for each item of work, and shall include the beginning and ending dates of the overall period of service. Credits due COUNTY that include any equipment purchased under the provisions of ARTICLE XI, Equipment Purchase, of this Agreement, must be reimbursed by CONSULTANT prior to the expiration or termination of this Agreement. Invoices shall be mailed to COUNTY at the following address:

County of El Dorado
Department of Transportation
2850 Fairlane Court
Placerville, California 95667
Attn.: Shanann Findley
Department Analyst

or to such other location as COUNTY directs.

- L. The period of performance for Task Orders or Work Orders shall be in accordance with dates specified in the Task Order or Work Order. No Task Order or Work Order will be written which extends beyond the expiration date of this Agreement.
- M. The total amount payable by COUNTY for an individual Task Order or Work Order shall not exceed the amount agreed to in the Task Order or Work Order, unless authorized by contract amendment.
- N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order or Work Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders or Work Orders may not be used to amend this Agreement and may not exceed the scope of work under this Agreement.
- P. The total amount payable by COUNTY for all Task Orders or Work Orders, costs or expenses resulting from this Agreement shall not exceed \$900,000. It is understood and agreed that there is no guarantee, either expressed or implied, that this dollar amount will be authorized under this Agreement through Task Orders or Work Orders.

ARTICLE VI

Termination:

- A. COUNTY reserves the right to terminate this Agreement, or any Task Order or Work Order issued pursuant to this Agreement, upon thirty (30) calendar days written

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

- B. COUNTY may terminate this Agreement with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY. If COUNTY terminates this Agreement with CONSULTANT, COUNTY shall pay CONSULTANT the sum due to CONSULTANT under this Agreement prior to termination, unless the cost of completion to COUNTY exceeds the funds remaining in the Agreement. In which case the overage shall be deducted from any sum due CONSULTANT under this Agreement and the balance, if any, shall be paid to CONSULTANT upon demand.
- C. The maximum amount for which COUNTY shall be liable if this Agreement is terminated is the not-to-exceed amount of the Task Order or Work Order or the total amount of this Agreement, as applicable.
- D. 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.

- E. Bankruptcy: This Agreement, at the sole option of COUNTY, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of CONSULTANT.
- F. Ceasing Performance: COUNTY may terminate this Agreement immediately in the event CONSULTANT ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.

- G. Termination or Cancellation without Cause: CONSULTANT shall comply with the requirements of this Article, regarding administrative, contractual, or legal remedies in instances of default, termination, or cancellation and with other terms and conditions of COUNTY's grant funding agreements that provide for such sanctions and penalties as may be appropriate in instances where contract terms are violated or breached.
- H. Completion of Work: In the event of termination of the Agreement, for default or without cause, COUNTY reserves the right to take over and complete any work, service, or task by contract or by other means.

ARTICLE VII

Cost Principles and Administrative Requirements:

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 C.F.R., Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 2 C.F.R. § 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 C.F.R. § 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and 48 C.F.R. Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to COUNTY.
- D. Notwithstanding any other provision of this Agreement to the contrary, payments to CONSULTANT for travel and subsistence (per diem) and mileage expenses, if applicable, for CONSULTANT's staff or for subconsultants claims for reimbursement shall not exceed the lesser of (1) the rates to be paid to COUNTY employees under the current Board of Supervisors Travel Policy in effect at the time the expenses are incurred; or (2) the rates authorized to be paid to rank and file state employees under the then current State of California Department of Human Resources rates. These rates may be found at <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>. If the rates invoiced are in excess of these authorized rates, then CONSULTANT is responsible for the cost difference and any overpayments shall be reimbursed to COUNTY upon demand. For the purposes of this Agreement, only source inspection services reimbursement for travel and subsistence (per diem) expenses for CONSULTANT or subconsultants in the Tahoe Basin, if applicable, shall be eligible for reimbursement in accordance with ARTICLE II, Compensation for Services, above. No reimbursements for travel and subsistence (per diem) expenses for CONSULTANT or subconsultants shall be allowed for travel outside of the Tahoe Basin.

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 VIII

Retention of Records/Audit: For the purpose of determining compliance with Public Contract Code Section 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7; CONSULTANT, subconsultants, and COUNTY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment under the Agreement. The state, State Auditor, COUNTY, FHWA, FEMA, Comptroller General of the United States, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the Agreement and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

ARTICLE IX

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 in writing.

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

D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, cost proposal and ICR, and related work papers, if applicable, will be reviewed to verify compliance with 48 C.F.R., Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is

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

The provisional ICR will apply to this Agreement and all other contracts executed between COUNTY and CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X

Subcontracting:

A. Nothing contained in this Agreement or otherwise shall create any contractual relation between COUNTY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to COUNTY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from COUNTY'S obligation to make payments to the CONSULTANT.

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

C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by COUNTY.

D. All subcontracts entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

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

F. CONSULTANT is engaged by COUNTY for its unique qualifications and skills as well as those of its personnel. CONSULTANT shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of COUNTY. COUNTY may, at its sole discretion, through its Contract Administrator, authorize CONSULTANT to utilize subconsultants for services performed

in Exhibit A, for the particular tasks, work, and deliverables identified therein or as identified in the individual Task Orders and/or Work Orders issued pursuant to this Agreement. Said written authorization and approval shall be sought and obtained by CONSULTANT prior to subconsultants' commencement of any work under this Agreement. Specific subconsultants shall be authorized in individual Task Orders and Work Orders issued pursuant to this Agreement. CONSULTANT shall require each subconsultant, to the extent of the work to be performed by the subconsultant, to be bound to CONSULTANT by the terms of this Agreement and to assume toward CONSULTANT all of the obligations and responsibilities that CONSULTANT, by this Agreement, assumes toward COUNTY.

ARTICLE XI

Equipment Purchase:

- A. Prior authorization in writing by COUNTY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000, prior written authorization by COUNTY's Contract Administrator is required; three (3) competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this Agreement is subject to the following: "The CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two (2) years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, COUNTY shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, CONSULTANT may either keep the equipment and credit COUNTY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established COUNTY procedures, and credit COUNTY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to COUNTY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by COUNTY." 2 C.F.R. § 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

ARTICLE XII

State Prevailing Wage Rates:

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

Note: The Federal "Payment of Predetermined Minimum Wage" applies only to federal-aid construction contracts.

ARTICLE XIII

Conflict Of Interest:

- A. CONSULTANT shall disclose any financial, business, or other relationship with COUNTY that may have an impact upon the outcome of this Agreement, or any ensuing COUNTY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing COUNTY construction project that will follow. CONSULTANT has acknowledged this interest of consultant and CONSULTANT has duly executed Exhibit C, marked "Interest of Consultant Disclosure Statement," incorporated herein and made by reference a part hereof.
- B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire, any financial or business interest that would conflict with the performance of services under this Agreement.
- C. CONSULTANT hereby certifies that neither CONSULTANT, its employees, nor any firm affiliated with CONSULTANT providing services on this project prepared the Plans, Specifications, and Estimate for any construction project named in the individual Task Order or Work Order, as applicable. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- D. CONSULTANT further certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT, will bid on any construction subcontracts included within the construction contract. Additionally, CONSULTANT certifies that no person working

under this Agreement is also employed by the construction contract or for any project included within this Agreement.

E. Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this Agreement shall have provided services on the design of any project included within this Agreement.

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

ARTICLE XIV

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

ARTICLE XV

Prohibition of Expending COUNTY, State, or Federal Funds For Lobbying:

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

1. No state, federal, or local agency appropriated funds have been paid or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement, CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions which form and instructions are attached hereto as Exhibit D 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 he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

ARTICLE XVI

Statement of Compliance:

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Agreement, CONSULTANT and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, genetic information, gender, gender identity, gender expression, sexual orientation, or military and veteran status, and denial of family care leave. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code § 12900 [a-f] et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 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. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

- C. CONSULTANT shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, or disability, be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- D. CONSULTANT, with regard to the work performed by it during the Agreement, shall act in accordance with Title VI. Specifically, the CONSULTANT shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subconsultants, including procurement of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.
- E. Pursuant to 41 C.F.R. § 60-1.4(b), for any construction support services performed with FEMA funding, CONSULTANT agrees:
- a. CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - b. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- c. The CONSULTANT will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONSULTANT's legal duty to furnish information.
- d. The CONSULTANT will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONSULTANT's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The CONSULTANT will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The CONSULTANT will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. (7) In the event of the CONSULTANT's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the CONSULTANT may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The CONSULTANT will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8)

in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

ARTICLE XVII

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 C.F.R. § 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)," which certifies that he/she or any person associated therewith in the capacity of 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 matter 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. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.

ARTICLE XVIII

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

ARTICLE XIX

Standards for Work: Services rendered under this Agreement shall be performed in accordance with the guidelines set forth in the current edition of the *Caltrans Construction Manual*, *Caltrans Bridge Construction Records and Procedures (BCRP) Manual*, *Caltrans Materials Testing Manual*, *Caltrans Local Assistance Procedures Manual*, *Caltrans Source Inspection Quality Management Plan Outline*, the El Dorado County Department of Transportation's Quality Assurance Program, ASTM testing procedures, and all other applicable Caltrans, Federal Highway Administration (FHWA),

federal, state, and local laws, COUNTY guidelines and accepted industry standards, and shall be performed in a safe, professional, skillful, and workmanlike manner in accordance with good engineering practices. Where applicable, services shall further conform to all U.S. Code of Federal Regulation Title 23 requirements and all applicable federal laws, regulations and policy, and procedural or instructional memoranda.

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

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

CONSULTANT has full responsibility for the accuracy and completeness of the deliverables, reports, and such other documents that may be required for the tasks or items of work assigned. Assistance, cooperation, and oversight by COUNTY, Caltrans, FHWA, FEMA, 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 XX

Quality Control: CONSULTANT shall have a quality control/quality assurance (QC/QA) plan in effect during the entire time work is being performed under this Agreement. Prior to the start of any work, CONSULTANT shall provide COUNTY with its QC/QA plan and an outline of the project-specific quality control/quality procedures. CONSULTANT shall identify quality control reviews to ensure compliance with the major deliverables within the Scope of Work for this Agreement.

ARTICLE XXI

Licenses: CONSULTANT hereby represents and warrants that CONSULTANT and any of its subconsultants employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for CONSULTANT and its subconsultants to practice its profession or provide the services or work contemplated under this Agreement in the State of California. CONSULTANT and its subconsultants shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

ARTICLE XXII

Ownership of Data: Upon completion or earlier termination of all services under this Agreement, or upon the completion or earlier termination of services provided in

accordance with individual Task Orders and/or Work Orders issued pursuant to this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos, and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in COUNTY without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to COUNTY. Copies may be made for CONSULTANT's records, but shall not be furnished to others without prior 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 XXIII

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

ARTICLE XXIV

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

ARTICLE XXV

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 XXVI

Confidentiality:

- A. CONSULTANT and any subconsultants authorized under this Agreement shall maintain the confidentiality and privileged nature of all records, including billing records, all financial, statistical, personal, technical, or other data and information relative to COUNTY's operations together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. CONSULTANT, and all CONSULTANT's staff, employees, and representatives, including any subconsultants authorized herein, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to COUNTY's Department of Transportation or to such person with COUNTY's consent for the purpose of, and in the performance of, this Agreement.
- B. Permission granted by COUNTY to disclose information on one occasion shall not authorize CONSULTANT or any subconsultants authorized under this Agreement to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT and any subconsultants authorized under this Agreement shall not comment publicly to the press or any other media regarding this Agreement or COUNTY's actions on the same, except to COUNTY's staff, CONSULTANT's own personnel, or authorized subconsultants involved in the performance of this Agreement, at public hearings, or in response to questions from COUNTY's Board of Supervisors.
- D. CONSULTANT and any subconsultants authorized under this Agreement shall not issue any news release or public relations item of any nature, whatsoever, regarding services performed or to be performed under this Agreement without prior review of the contents thereof by COUNTY and receipt of COUNTY's Contract Administrator's written permission.
- E. All information related to any construction estimates prepared or otherwise obtained in the performance of this Agreement is confidential, and shall not be disclosed by CONSULTANT to any entity other than to COUNTY.
- F. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.
- G. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

ARTICLE XXVII

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

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

ARTICLE XXVIII

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that COUNTY is a political subdivision of the State of California. As such, COUNTY is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given year. It is further understood that in the normal course of COUNTY business, COUNTY will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

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

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

ARTICLE XXIX

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

To COUNTY:

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

Attn.: Rafael Martinez, Director

With a copy to:

County of El Dorado
Chief Administrative Office
2850 Fairlane Court
Placerville, California 95667

Attn.: Michele Weimer
Procurement & Contracts Manager

or to such other location as COUNTY directs.

Notices to CONSULTANT shall be addressed as follows:

HDR Construction Control Corporation
2365 Iron Point Road, Suite 300
Folsom, California 95630

Attn.: Jason Tom, Vice President

or to such other location as CONSULTANT directs.

ARTICLE XXX

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

ARTICLE XXXI

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, officers, or agents, 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 and is subject to any limit provided for in Civil Code Section 2782.8(a) of the cost to defend charged to CONSULTANT for design professional services. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement, provided that

COUNTY's failure to immediately or timely notify CONSULTANT does not limit or waive CONSULTANT's defense and indemnity obligations in this Article. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

ARTICLE XXXII

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 \$2,000,000 combined single limit per occurrence for bodily injury and property damage and a \$4,000,000 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by CONSULTANT in performance of the Agreement.
- D. In the event CONSULTANT is a licensed professional or professional consultant 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 agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the written 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. 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.

- H. The certificate of insurance must include the following provisions stating that:
1. The insurer will not cancel the insured's coverage without prior written notice to COUNTY; and
 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. CONSULTANT's insurance coverage shall be primary insurance in respect to 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 in respect to 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, employees, and volunteers 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.
- P. CONSULTANT shall ensure that all subconsultants authorized pursuant to this Agreement shall maintain workers' compensation, general liability, automobile liability, and professional liability insurance as specified above and shall provide COUNTY with proof of same if requested.

ARTICLE XXXIII

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 XXXIV

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

ARTICLE XXXV

COUNTY Payee Data Record Form: All independent contractors or corporations providing services to COUNTY who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with COUNTY must file a County Payee Data Record Form with COUNTY.

ARTICLE XXXVI

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

ARTICLE XXXVII

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 XXXVIII

Compliance with Federal, State, and COUNTY Requirements: COUNTY is relying on federal assistance or grants, state funds, and local agency or other grant funds for all or a portion of the funding for the services to be provided herein. As a requirement of COUNTY's use of federal, state, and local agency grant funds, COUNTY is required to comply with certain contracting requirements and to extend those requirements to all

third party contracts. CONSULTANT shall comply with all applicable provisions of federal, state, and local agency regulations, including those required by the FHWA grant funding requirements, FEMA, 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 (C.F.R.), are incorporated by reference and made a part of this Agreement:

2 C.F.R. § 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.

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 XXXIX

FEMA Funding Acknowledgement: CONSULTANT acknowledges that FEMA financial assistance may be used to fund a portion of this Agreement. CONSULTANT shall comply with all applicable federal law; regulations; executive orders; and FEMA policies, procedures, and directives for any work done on a Task Order that utilizes FEMA funding.

ARTICLE XL

No Obligation by the Federal Government: The federal government is not a party to this Agreement and is not subject to any obligations or liabilities to COUNTY, CONSULTANT, or any other party pertaining to any matter resulting from this Agreement.

ARTICLE XLI

Working Office: CONSULTANT shall establish a working office at a place acceptable to COUNTY. The parties hereto acknowledge and agree that CONSULTANT's office is located at 2365 Iron Point Road, Suite 300, Folsom, California 95630.

ARTICLE XLII

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.

ARTICLE XLIII

Design Standards: CONSULTANT shall perform all services under this Agreement and as described in Exhibit A, in conformance with applicable federal, state, and local design standards or other standards for work performance stipulated in ARTICLE XIX, Standards for Work, or in the individual Task Orders and Work Orders issued pursuant to this Agreement.

ARTICLE XLIV

Documentation: CONSULTANT shall document the results of its work to the satisfaction of COUNTY and if applicable, the State of California, FEMA, 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 XLV

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

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

ARTICLE XLVI

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

ARTICLE XLVII

Disadvantaged Business Enterprise (DBE) Considerations: CONSULTANT must give consideration to DBE firms as specified in 23 C.F.R. § 172.5(b) and in Appendix A to 49 C.F.R. § 26. 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.

As applicable, DBE requirements will be discussed at the meeting or telephone conference held to determine the specific services required in a Task Order or Work Order. COUNTY's Contract Administrator will provide CONSULTANT with the

necessary DBE forms and information for use and/or submittal with CONSULTANT's Task Order/Work Order proposal or CONSULTANT's final invoice.

ARTICLE XLVIII

Disadvantaged Business Enterprise (DBE) Participation:

- A. This Agreement is subject to 49 C.F.R. § 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Consultants who obtain DBE participation on this Agreement shall assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this Agreement is 12%. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1) or in the Consultant Contract DBE Commitment (Exhibit 10-O2). If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. DBEs and other small businesses, as defined in 49 C.F.R. § 26, are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 C.F.R. § 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.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.
- E. A DBE firm may be terminated only with prior written approval from COUNTY and only for the reasons specified in 49 C.F.R. § 26.53(f). Prior to requesting COUNTY's consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 C.F.R. § 26.53(f).
- F. CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials, if any, for which each is listed unless CONSULTANT obtains prior written consent from COUNTY's Contract Administrator. CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE without written approval from COUNTY's Contract Administrator.
- G. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the

material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors.

- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to COUNTY's Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice shall result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to COUNTY's Contract Administrator.
- L. If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to COUNTY's Contract Administrator within thirty (30) days.

ARTICLE XLIX

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 L

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 Department of Transportation Director, or designee, which may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) days after completion of all work under any individual Task Order or Work Order issued pursuant to this Agreement, CONSULTANT may request review by COUNTY's Board of Supervisors of unresolved claims or disputes, other than audit. The request for review shall 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 any and all claims arising out of or related to the dispute and a bar to any further proceedings or legal or equitable remedy.

ARTICLE LI

Inspection of Work: CONSULTANT and any subconsultants authorized herein shall permit COUNTY, the State of California, FEMA, 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 LII

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 LIII

Claims Filed by COUNTY'S Construction Contractors:

- A. If claims are filed by COUNTY's construction contractors relating to work performed by CONSULTANT's personnel or subconsultants, and additional information or assistance from CONSULTANT's personnel or subconsultants is required in order to evaluate or defend against such claims, CONSULTANT agrees to make its personnel and/or subconsultants available for consultation with COUNTY's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel and subconsultants that COUNTY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from COUNTY. Any consultation or testimony that may be required by COUNTY will be reimbursed at the same rates that are being paid for CONSULTANT's personnel services under Exhibit B hereto, unless the construction contractor claims are covered in whole or in part by ARTICLE XXXI, Indemnity, in which case no compensation will be paid.
- 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.

ARTICLE LIV

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 LV

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 LVI

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 and women's business enterprises. 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 LVII

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 C.F.R. § 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).

If COUNTY uses of federal grant funds in excess of \$150,000 under this contract, CONSULTANT shall comply with the following:

A. Clean Air Act

(1) CONSULTANT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) CONSULTANT agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) CONSULTANT agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

B. Federal Water Pollution Control Act

(1) CONSULTANT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) CONSULTANT agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) CONSULTANT agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

ARTICLE LVIII

Contract Administrator: The COUNTY Officer or employee with responsibility for administering this Agreement is Rafael Martinez, Director, Department of Transportation, or successor.

ARTICLE LIX

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

ARTICLE LX

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

ARTICLE LXI

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

ARTICLE LXII

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

ARTICLE LXIII

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

Requesting Contract Administrator and Department Concurrence:

By: Matthew Smetzer Dated: 4/4/19
for Rafael Martinez, Director
Department of Transportation

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


--COUNTY OF EL DORADO--

By: 

Dated: 4/9/2019

Board of Supervisors
"COUNTY"

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

By: 
Deputy Clerk

Dated: 4/9/2019

--HDR CONSTRUCTION CONTROL CORPORATION--

By: 
Jason Albert Tom
Vice President
"CONSULTANT"

Dated: 03/27/2019

By: 
Kenneth E. Jong
Vice President

Dated: 03/27/2019

HDR Construction Control Corporation

Exhibit A

Scope of Work

Scope of Work Table of Contents

Item of Work A. Construction Inspection 1

Item of Work B. Construction Administration and Engineering 3

Item of Work C. Project Closeout 6

DELIVERABLES:

Unless otherwise indicated below, and notwithstanding any other provision of this Agreement to the contrary, CONSULTANT shall submit hard copy deliverables via US Mail or in-person delivery and electronic copy deliverables via email to COUNTY’s Contract Administrator and Task Order or Work Order Manager. 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 USB drive in jpeg format with a minimum resolution of 2816 X 2112.

Unless otherwise directed by COUNTY’s Contract Administrator, the files for the project will be located at the office provided by COUNTY.

Scope of Work

CONSULTANT shall perform the tasks included in the Items of Work below. COUNTY will provide all construction staking and materials testing services.

Item of Work A. Construction Inspection WBS C010E (WBSActivityID)

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

1) Construction Inspection:

CONSULTANT shall check the quality and quantity of the work performed by COUNTY’s construction contractor, any subcontractors, and any utility companies. CONSULTANT shall ensure construction contractor, subcontractors, and utility company compliance with the construction contract documents, copies

of which will be provided to CONSULTANT by COUNTY. Items to be inspected shall include, but shall not be limited to, construction materials, methods, techniques, and sequences, including verification of temporary and finished elevations. The on-site inspectors shall prepare Daily Inspection Reports each day that COUNTY's construction contractor, subcontractors, or utility company works on site. The Daily Inspection Reports shall document items including, but not limited to, the following:

- a. The date and the day of the week
- b. Labor (names of personnel, names of their respective companies, and their respective labor classifications)
- c. Equipment (type, make, model, company that owns or is using the equipment, and the construction contractor's or subcontractor's equipment identification number)
- d. Weather
- e. Number of hours that labor and equipment were used on respective contract Items of Work
- f. Number of hours that labor and equipment that were used on respective Contract Change Orders (CCOs) and potential claim work
- 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. The report must include accurate field measurements/quantities of materials incorporated in to the work. Photographs must be date/time stamped and shall be included as part of the Daily Inspection Report.

Deliverables: CONSULTANT shall provide the Daily Inspection Report form to COUNTY's Contract Administrator for review and approval prior to utilization. CONSULTANT shall place the completed originals of the previous week's Daily Inspection Reports (including photographs) in the project files before noon every Monday. CONSULTANT shall provide quantity calculation sheets for documentation supporting the progress pay estimates. These calculation sheets shall be provide to the COUNTY by the 20th day of each month:

2) As-Built Plans:

During construction, CONSULTANT shall compile as-built plans by making notes and sketches on a set of project plans, which will be provided to CONSULTANT by COUNTY, that show changes made to the contract plans that did not require CCOs. In addition, CONSULTANT shall incorporate changes implemented by CCOs into the contract plans by making notes and sketches on the as-built plans

or by placing supplemental or replacement sheets included with the CCOs directly into the as-built plans.

Deliverables: CONSULTANT shall keep as-built plans on file in the project files.

3) Digital Photography:

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

Deliverables: CONSULTANT shall place digital photographs on a USB drive and provide to COUNTY on a weekly basis. CONSULTANT shall place copies of the digital photographs on a USB drive and place the USB drive in the project files upon completion of project.

4) Water Pollution Control

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

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

Item of Work B. Construction Administration and Engineering WBS C010E (WBSActivityID)

CONSULTANT shall provide construction administration and engineering services including, but not limited to, the following:

- 1) Document pre-construction conditions using digital photographs and video recordings. The documentation shall encompass the entire project site and any off-site areas that may be affected by project construction, with special attention given to environmentally sensitive areas and areas where private property meets COUNTY or State property. CONSULTANT shall provide a digital camera for both still and video.

- 2) Excavation plan review, analysis, and responses to COUNTY's construction contractor.
- 3) Calculation, analysis, and review of temporary and finished elevations.
- 4) Analysis of formwork designs and systems.
- 5) Calculation of joint seal widths.
- 6) Development, analysis, and review of revisions to construction contract documents for incorporation into CCOs.
- 7) Prepare CCOs for COUNTY approval and execution.
- 8) Prepare responses to Notices of Potential Claims for COUNTY approval.
- 9) Perform Labor Compliance Interviews in accordance with the Local Assistance Procedures Manual.
- 10) Prepare project correspondence including, but not limited to, letters, emails, memoranda, and reports sent to all project stakeholders including, but not limited to, construction contractor and local businesses.
- 11) Facilitate meetings with the construction contractor, COUNTY, and other interested parties on a weekly basis. Prepare and distribute agendas and minutes for each meeting. Items covered at each meeting shall include, but not be limited to: three-week look-ahead schedule, status of submittals, CCOs, requests for information (RFIs), current project issues, overview of schedule performance, safety issues, scheduling of materials testing, survey staking, and overall project progress.
- 12) Ensure the construction contractor compliance with all schedule requirements contained in the construction contract documents including review and approval of the Contractor's Baseline Schedule. CONSULTANT shall perform technical review of the Contractor's Baseline Schedule, update schedules, as-built schedules, time impact analyses, and any other construction contractor submittals related to schedule. Monitor and review the construction contractor's progress relative to the construction contractor's schedule. By consulting with COUNTY's Project Manager, negotiating with the construction contractor, and enforcing the requirements contained in the construction contract documents, CONSULTANT shall minimize delays caused by issues including, but not limited to, right-of-way delays, utility work, CCOs, inclement weather, and unforeseen conditions. CONSULTANT shall notify the construction contractor and COUNTY's Project Manager when the construction contractor fails to keep pace with the construction contractor's schedule.
- 13) In accordance with the construction contract documents, COUNTY directives and the current edition of the *Caltrans Construction Manual*, CONSULTANT shall generate monthly progress pay estimates to be used by COUNTY to pay the construction contractor. CONSULTANT shall base the monthly progress pay estimates upon quantity calculation sheets developed by CONSULTANT for each contract item that show the calculations, measurements, or estimates made to support payment. CONSULTANT shall inform the construction

contractor of quantities for each item being paid each month prior to CONSULTANT finalizing the monthly progress pay estimates so that any disputes regarding the amounts to be paid can be negotiated by CONSULTANT and the construction contractor

- 14) Analysis of job mix formulas including Portland Cement Concrete mix designs.
- 15) Shop drawing and working drawing review, analysis, and responses to COUNTY's construction contractor.
- 16) Maintain project files in an organized, efficient, and logical manner that is consistent with COUNTY directives and the current edition of the *Caltrans Construction Manual*. CONSULTANT shall submit draft table of contents of the filing system to COUNTY for comment, prior to beginning work.
- 17) As submittals are received by CONSULTANT from the construction contractor, CONSULTANT shall enter information for each submittal into a submittal log including, but not limited to, date received, submittal description, party responsible for review, response due date, actual response date, and submittal approval/rejection status. When CONSULTANT is not responsible for submittal review, CONSULTANT shall perform an initial review for submittal completeness and then forward the submittal to the party responsible for review of the submittal or return it to the construction contractor for modification and resubmittal. When CONSULTANT is responsible for submittal review, CONSULTANT shall review the submittal and respond in a timely manner consistent with the construction contract documents, COUNTY's directives, and the current edition of the *Caltrans Construction Manual*.
- 18) As RFIs are received by CONSULTANT from the construction contractor, CONSULTANT shall enter the date received into an RFI log. The RFI log shall contain information for each RFI including, but not limited to, date received, RFI description, and party responsible for review, target response date, actual response date, and RFI open/closed status. When CONSULTANT is not responsible for RFI review, CONSULTANT shall perform an initial review for RFI clarity and completeness and then forward the RFI to the party responsible for review of the RFI or return it to the construction contractor for modification and resubmittal. When CONSULTANT is responsible for RFI review, CONSULTANT shall review the RFI and respond to the construction contractor within five (5) working days of RFI receipt from the construction contractor.
- 19) CONSULTANT shall be responsible for ensuring compliance with all of the environmental requirements associated with the project, include project-specific requirements, permit requirements, and environmental stewardship.

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

Item of Work C. Project Closeout WBS C200E (WBSActivityID)

In accordance with COUNTY's Contract Administrator's directives and the current edition of the *Caltrans Construction Manual*, CONSULTANT shall perform project closeout duties including, but not limited to, the following:

- 1) Completion of as-built plans within thirty (30) days of work completion.
- 2) Preparation of the Proposed Final Estimate

Deliverables: CONSULTANT shall place all data and correspondence pertaining to project closeout in the project files within five (5) working days of creating or receiving such data or correspondence.

HDR Construction Control Corporation

Exhibit B

Rate Schedule

Item	Rate
LABOR	
Project Manager	\$192 – 212 / hour
Construction Inspector	\$153 – 251 / hour
Project Administration	\$91 – 106 / hour
Resident Engineer	\$166 – 269 / hour
Rates are inclusive of all equipment required for Resident Engineers and Construction Inspectors: vehicles, cameras, computers, safety gear, and any additional items.	
EXPENDITURES	
*Mileage and Travel Expenses	
**Other Direct Costs	

* Reimbursement for mileage and travel expenses for CONSULTANT and for any subconsultants, if applicable, shall be compensated in accordance with the provisions of ARTICLE II, Compensation for Services, and ARTICLE VII, Cost Principles and Administrative Requirements, of this Agreement.

** Reimbursement for other direct costs shall be compensated in accordance with the provisions of ARTICLE II, Compensation for Services.

Exhibit C

INTEREST OF CONSULTANT DISCLOSURE STATEMENT

Disclosure of Conflicts

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

Certification

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

Signature


Kenneth E. Jong

Name

Vice President

Title

HDR Construction Control Corporation

Company Name

03/27/2019

Date

HDR Construction Control Corporation

Exhibit C

INTEREST OF CONSULTANT DISCLOSURE STATEMENT

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

Certification

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

Signature



Jason Albert Tom

Name

Vice President

Title

HDR Construction Control Corporation

Company Name

03/27/2019

Date

HDR Construction Control Corporation

Exhibit D

DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Type of Federal Action:
 a. contract
 b. grant
 c. cooperative agreement
 d. loan
 e. loan guarantee
 f. loan insurance

2. Status of Federal Action:
 a. bid/offer/application
 b. initial award
 c. post-award

3. Report Type:
 a. initial
 b. material change
For Material Change Only:
 year _____ quarter _____
 date of last report _____

4. Name and Address of Reporting Entity
 Prime Subawardee
 Tier _____, if known
 Congressional District, if known

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
 Congressional District, if known

6. Federal Department/Agency:

7. Federal Program Name/Description:
 CFDA Number, if applicable _____

8. Federal Action Number, if known:

9. Award Amount, if known:

10. a. Name and Address of Lobby Entity
 (If individual, last name, first name, MI)
 (attach Continuation Sheet(s) if necessary)

b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI)

11. Amount of Payment (check all that apply)
 \$ _____ actual planned

12. Form of Payment (check all that apply):
 a. cash
 b. in-kind; specify: nature _____
 Value _____

13. Type of Payment (check all that apply)
 a. retainer
 b. one-time fee
 c. commission
 d. contingent fee
 e. deferred
 f. other, specify _____

14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:
 (attach Continuation Sheet(s) if necessary)

15. Continuation Sheet(s) attached: Yes No

16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: _____
 Print Name: _____
 Title: _____
 Telephone No.: _____ Date: _____

Authorized for Local Reproduction
 Standard Form - LLL

Federal Use Only:

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

HDR Construction Control Corporation

Exhibit D

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

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

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

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