

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Public Works

BOARD AGENDA # \*C-1

Urgent

Routine

AGENDA DATE September 16, 2014

CEO Concurs with Recommendation YES  NO

4/5 Vote Required YES  NO

(Information Attached)

SUBJECT:

Approval to Award a Contract for Bridge Vulnerability Study Engineering Services to Dokken Engineering of Folsom, California for the Las Palmas Avenue over San Joaquin River Bridge Replacement Project in Stanislaus County, Federal Project No. BRLS-5938 (200)

STAFF RECOMMENDATIONS:

1. Approval to award a contract for Bridge Vulnerability Study Engineering Services to Dokken Engineering of Folsom, California, in the amount of \$113,854 for the Las Palmas Avenue over San Joaquin River Bridge Replacement Project.
2. Authorize the Director of Public Works to execute a contract with Dokken Engineering in the amount of \$113,854 and to sign necessary documents, including any amendments to the agreement not to exceed 10%.

FISCAL IMPACT:

Costs associated to assure the delivery of this project is in the amount of \$113,854 for the Bridge Vulnerability Study Engineering Services contract. The Bridge Vulnerability Study is funded by Public Facilities Fees. Funding is available in the Fiscal Year 2014-2015 Public Works Road and Bridges budget.

BOARD ACTION AS FOLLOWS:

No. 2014-480

On motion of Supervisor Monteith, Seconded by Supervisor Withrow  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, Monteith, and Chairman De Martini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2)        Denied

3)        Approved as amended

4)        Other:

MOTION:

ATTEST:

Elizabeth A. King  
ELIZABETH A. KING, Assistant Clerk

File No.

Approval to Award a Contract for Bridge Vulnerability Study Engineering Services to Dokken Engineering of Folsom, California for the Las Palmas Avenue over San Joaquin River Bridge Replacement Project in Stanislaus County, Federal Project No. BRLS-5938 (200)

## DISCUSSION:

The Las Palmas Avenue over San Joaquin River Bridge was built in 1959 and located approximately 3 miles northeast of State Route 33. The current structure allows for two travel lanes with a shoulder on either side. Las Palmas Avenue is a rural County road in the southwestern part of Stanislaus County that travels in the east/west direction and serves as a major rural collector in Stanislaus County.

The Las Palmas Avenue over San Joaquin River Bridge has multiple vulnerabilities that could potentially cause the bridge to collapse:

- Liquefaction: this is a phenomenon in which the strength and stiffness of a soil is greatly reduced in the event of an earthquake. Once liquefaction occurs the soil loses most of its capacity to resist any vertical or lateral loads. The soils identified in the existing Log of Test Boring (LOTB) dated July 17, 1958, are known to be susceptible to liquefaction.
- Lateral Spreading: this is a phenomenon in which liquefaction takes place at the abutments (supports at the end of a bridge). Once the soil liquefies it will behave like a liquid and will carry the embankment into the river channel very similar to a landslide. The embankment will strike the pier foundations supporting the bridge and as a result could potentially collapse the bridge.
- Corrosion of Pier Columns: the piers supporting the bridge consist of unreinforced concrete, encased with a ¼" thick steel shell. The ¼" thick steel shell serves as reinforcement to the concrete piers. Based on observations made by Public Works staff and consultants some of the piers have experienced corrosion loss up to 50% of the original thickness. As a result the capacity of the bridge to resist lateral loads has been greatly reduced.

The Vulnerability Study is Phase 1 of the Las Palmas Avenue over San Joaquin River Bridge Replacement project, which is a part of the South County Corridor (SCC) Study Area scope. Upon completion and approval by the County, the Vulnerability Study will be forwarded to Caltrans for review and approval to commence Phase 2 of the project.

- The intent of Phase 1 is to demonstrate to Caltrans that the bridge is structurally and seismically deficient. Due to these deficiencies bridge rehabilitation or replacement is needed.
- Once Phase 1 is approved Caltrans will evaluate and readdress the bridge inspection report. As a result the bridge will become eligible to receive Highway Bridge Program (HBP) funding for Phase 2 of the project.

Phase 2 of the project will consist of the All-Inclusive Bridge Engineering Services for bridge replacement including Project Approval and Environmental Documentation (PA&ED). Public

Approval to Award a Contract for Bridge Vulnerability Study Engineering Services to Dokken Engineering of Folsom, California for the Las Palmas Avenue over San Joaquin River Bridge Replacement Project in Stanislaus County, Federal Project No. BRLS-5938 (200)

Works Staff will bring an agenda item for consideration of Phase 2 before the Board in the first quarter of 2015.

The County solicited proposals to consultants for the Las Palmas Avenue over San Joaquin River bridge replacement project on April 22, 2014.

The scope of the Phase 1 Bridge Engineering Services includes:

- Project management services;
- Pile Condition Evaluation;
- Preliminary Geotechnical Investigation;
- Preliminary Hydraulics Analysis; and
- Seismic Analysis and Vulnerability Study.

On May 13, 2014, eight proposals were submitted for review. All proposals were evaluated based on qualifications only. Along with the proposal, consultant fees were submitted in a separate sealed fee envelope and were not part of the evaluation process. A sealed fee envelope was opened only for the most qualified proposal. Below is a list of consulting firms that submitted proposals:

- Drake Haglan and Associates
- Dokken Engineering
- Rajappan and Meyer
- TY LIN International
- WIN Structural Consulting Group
- ADKO Engineering
- Biggs Cardosa Associates, Inc.
- HDR

Proposals were evaluated based on the following evaluation criteria:

- Understanding of the work to be performed;
- Quality of staff for work to be done;
- Experience with similar kinds of work;
- Familiarity with State and Federal procedures;
- Capability of developing innovative or advanced techniques;
- Financial responsibility; and,
- Demonstrated technical ability.

Approval to Award a Contract for Bridge Vulnerability Study Engineering Services to Dokken Engineering of Folsom, California for the Las Palmas Avenue over San Joaquin River Bridge Replacement Project in Stanislaus County, Federal Project No. BRLS-5938 (200)

Public Works staff reviewed the proposals received and ranked them based on the above criteria, in the following order:

1. Drake Haglan and Associates
2. Dokken Engineering
3. HDR
4. TY LIN International
5. Biggs Cardosa Associates, Inc.
6. ADKO Engineering
7. Rajappan and Meyer
8. WIN Structural Consulting Group

The top four ranked consultants were invited to an interview process and scored. Drake Haglan and Associates declined to interview. Using a combined score from the evaluation and the interview, the remaining three consultants were ranked in the following order:

1. Dokken Engineering
2. TY LIN International
3. HDR

Public Works staff recommends awarding a contract to the top ranked consultant, Dokken Engineering of Folsom, California, in the amount of \$113,854, as the most qualified consultant based on the results of the evaluation criteria.

**POLICY ISSUES:**

The recommended actions are consistent with the Board's priorities of providing A Safe Community, A Healthy Community, and A Well Planned Infrastructure System by initiating the process to replace a structurally and seismically deficient bridge in Stanislaus County.

**STAFFING IMPACT:**

There are no staffing impacts associated with this item.

**CONTACT PERSON:**

Matthew Machado, Public Works Director. Telephone: (209) 525-4130.

**ATTACHMENT(S):**

1. Professional Design Services Agreement
2. Addendum to Professional Design Services Agreement

**STANISLAUS COUNTY  
PROFESSIONAL DESIGN SERVICES AGREEMENT**

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and Dokken Engineering, hereinafter referred to as "Consultant".

WHEREAS, County, by its Resolution No. 2014-480 adopted on the 16<sup>th</sup> day of September, 2014, awarded to Consultant the following Contract:

**Las Palmas Avenue over San Joaquin River Bridge Replacement Project  
Phase 1 – Vulnerability Study**

**Contract No. 9298  
Federal Project No. BRLS-5938(200)**

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT**

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws

including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-Discrimination. During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. Consultant and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Covenant Against Contingent Fees. Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she 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, the local agency 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.

## 2.0 COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed **One Hundred Thirteen Thousand Eight**

**Hundred Fifty-Four Dollars (\$113,854).** Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subcontractors at the hourly rates specified in the Fee Schedule. The Fee Schedule rates include direct salary costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. The County may retain ten percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in each Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B unless the County or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

### **3.0 TIME OF PERFORMANCE**

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit "D", attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the

parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

#### **4.0 TERM OF CONTRACT AND TERMINATION**

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue until the work required herein is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

#### **5.0 INSURANCE REQUIREMENTS**

5.1. Minimum Scope and Limits of Insurance. Consultant, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain, at minimum, compliance with all of the following insurance coverage(s) and



requirements. If Consultant normally carries insurance in an amount greater than the minimum amount listed below, that greater amount shall become the minimum required amount of insurance for purposes of this Agreement. The insurance listed below shall have a retroactive date of placement prior to, or coinciding with, the date services are first provided that are governed by the terms of this Agreement:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000), combined single limits, per occurrence and aggregate. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except Professional Liability insurance and Workers Compensation insurance, naming the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers as additional insureds for at least three years after the completion of the work to be performed under this Agreement, but, to the extent that any insurance issued to Consultant in effect after the expiration of three years provides additional insured coverage to parties Consultant agreed in writing to name as an additional insured, then Consultant shall have the obligation under this contract to obtain such additional insured coverage for the County, under any and all policies Consultant has regarding:

- (a) Liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Consultant, including the insured's general supervision of its subcontractors;
- (b) Ongoing services, products and completed operations of the Consultant;
- (c) Premises owned, occupied or used by the Consultant; and
- (d) Automobiles owned, leased, hired or borrowed by the Consultant.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Consultant.

5.3. Deductibles: Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant's defense and indemnification obligations as set forth in this Agreement.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary insurance regarding the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers. Any insurance or self-insurance maintained by the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Any and all insurances carried by it shall be deemed liability coverage for any and all actions it performs in connection with this Contract.

5.7. Cancellation of Insurance: Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies. Consultant shall maintain

such coverage in effect for three (3) years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-:VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance.

5.9. Subcontractors: Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

## 6.0 INDEMNIFICATION

6.1. Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnitee") from and against any and all claims, suits, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, (collectively, "losses") which are founded upon, arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the County, its agents, employees, and representatives. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

6.2. Duty to Defend: The duty of Consultant to indemnify and save harmless as set forth herein, shall include both the duty to indemnify and at Consultant's own cost and expense the duty to defend as set forth in Section 2778 of the California Civil Code and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

6.3. Duty to Cooperate: Each party shall notify the other party within ten (10) days in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the

activities under this Agreement. Specifically, Consultant shall take all steps necessary to assist the County in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

6.4. Patent Rights: Consultant represents that professional services provided by Consultant pursuant to this Agreement does not infringe on any other copyrighted work. Consultant shall defend, indemnify and hold harmless the County from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the County of any articles or services supplied under this agreement.

6.5. The foregoing provisions shall survive the term and termination of this Agreement.

## **7.0 GENERAL PROVISIONS**

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: Juann Ramos, PE
- b. Lead/Manager: n/a

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:  
Stanislaus County Public Works  
Attn: Linda Allsop, Contract Administrator  
1716 Morgan Road  
Modesto, CA 95358

If to Consultant:  
Dokken Engineering  
Attn: Juann Ramos, PE  
110 Blue Ravine Road, Ste. 200  
Folsom, CA 95630

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State

Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

7.11. Confidentiality: The Consultant agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided, unless such disclosure is required by law.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to

Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially

impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.


7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.


7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

**COUNTY OF STANISLAUS**

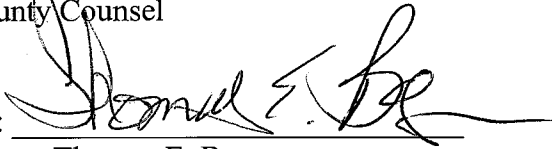
**DOKKEN ENGINEERING**

By:   
Matt Machado, Director  
Department of Public Works

By:   
Richard T. Liptak, PE  
President

**APPROVED AS TO FORM:**

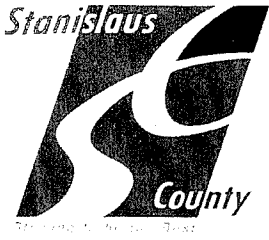
John P. Doering  
County Counsel

By:   
Thomas E. Boze  
Deputy County Counsel



**EXHIBIT A**  
**COUNTY'S REQUEST FOR PROPOSAL**





**DEPARTMENT OF PUBLIC WORKS**

**Matt Machado, PE, LS**  
**Director, County Surveyor**

**Chris Brady, PE**  
**Deputy Director - Construction/Roads/Bridges**

**Colt Esenwein, PE**  
**Deputy Director - Engineering/Survey/Fleet**

**David Leamon, PE**  
**Deputy Director - Development/Traffic**

**Kathy Johnson**  
**Assistant Director - Finance/GIS/HR/Transit**

[www.stancounty.com/publicworks](http://www.stancounty.com/publicworks)

**STANISLAUS COUNTY**

**DEPARTMENT OF PUBLIC WORKS**

**REQUEST FOR PROPOSALS FOR  
LAS PALMAS AVENUE OVER SAN JOAQUIN RIVER  
ALL -INCLUSIVE BRIDGE ENGINEERING SERVICES**

**Federal Project No.: BRLS-5938(200)**  
**State Bridge No.: 38C-0033**

**Invitation Date:** April 22, 2014  
**Questions Deadline:** 5:00 PM, May 16, 2014  
**Last Addendum:** 5:00 PM, May 23, 2014  
**Proposal Due Date:** 5:00 PM, May 30, 2014

Stanislaus County Department of Public Works is soliciting a Request for Proposal (RFP) for All Inclusive Bridge Engineering Services for the Las Palmas Avenue over San Joaquin River Vulnerability Study and Rehabilitation/Retrofit Project located in Stanislaus County.

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## Attachments

1. Sample Fee Proposal .....	<b>A1</b>
2. Exhibit 10-I – Notice to Proposers DBE Information .....	<b>A2</b>
3. Exhibit 10-J – Standard Agreement for Sub-Consultants/DBE Participation .....	<b>A3</b>
4. Exhibit 10-O1 – Consultant Proposal DBE Commitment .....	<b>A4</b>
5. Exhibit 10-O2 – Consultant Contract DBE Information .....	<b>A5</b>
6. Sample Design Services Agreement and Addendum to Professional Design Services.....	<b>A6</b>
7. Exhibit 10-B – Suggested Consultant Evaluation Sheet .....	<b>A7</b>
8. Exhibit 10-K – Consultant Certification of Contract Cost and Financial Management System .....	<b>A8</b>
9. Exhibit 10-F – Certification of Consultant, Commissions and Fees .....	<b>A9</b>
10. Project Vicinity and Location Map .....	<b>A10</b>
11. Caltrans Bridge Report.....	<b>A11</b>
12. Existing Project Documents (If Applicable).....	<b>A12</b>

## **Project Description**

The Las Palmas Avenue over San Joaquin Bridge was built in 1959 and the structure is classified as a Reinforced Concrete (RC) continuous slab on steel pile bents and RC winged diaphragm abutments on concrete piles. The bridge is located approximately 3 miles north-east of Highway 33 and the city of Patterson.

The purpose of the project is to improve public safety. The California Department of Transportation (Caltrans), Bridge Inspection report identifies multiple deficiencies with the Las Palmas over San Joaquin Bridge:

- There are random longitudinal soffit cracks in spans 5, 6, 16, 17 and 22. The soffit cracks are up to 24 inches in length.
- All steel column pile extension has general surface rust along their entire length with pitting at the bottom 5 feet. The steel column pile extensions in Bents 4 thru 9 exhibit more pitting due to their contact with water.

In addition Stanislaus County has identified potential liquefaction issues based on information provided in the Caltrans As-Built Log of Test Boring (LOTB) dated March 23, 1959 (See Attachment 12). The LOTB shows large zones of low blow counts of loose to very loose sands for the upper 10 to 30 feet of material at the piles. The Las Palmas Avenue over San Joaquin Bridge Vulnerability Study and Rehabilitation/Retrofit Project is necessary due to the potential for liquefaction and a sufficiency rating (SR) of 67.2. Additional deficiencies may exist and be discovered as a result of additional studies or investigation performed by the winning consultant

## **Scope of Work**

The schedule for Phase 1 will be determined once a consultant is selected and shall be prepared in a manner to allow for the Phase 2 schedule to commence as stated below.

The estimated schedule for Phase 2 of the project is as follows:

Project Kick-off and Environmental Document: December 2014 – January 2017

Plans, Specifications, and Estimate:

30% : September 2015

60% : June 2016

90% : February 2017

100%: November 2017

Right of Way: January 2017 – October 2017

Bidding and Award Contract: February 2018

Construction: September 2018

## **SCOPE OF SERVICES**

### **PHASE 1: VULNERABILITY STUDY**

#### **Task 1: Piling and Piling Extension Condition Evaluation**

- Paint scrapings from up to 5 piles shall be collected and tested for heavy metals (chromium, arsenic, selenium, silver, cadmium, barium, mercury and lead). Testing shall be performed by a certified and accredited testing firm per EPA SW6020A.
- Evaluate the average condition of the paint on the piling.
- Take ultrasonic thickness reading on shell thickness of the pipe piling at up to 100 locations, including up to 50 locations in the low flow channel where accessible with waders. Assume above water testing only.
- Perform visual weld inspection of up to 5 pile circumferential splice welds and up to 5 spiral welds utilizing an American Welding Society Certified Weld Inspector.
- Prepare a report documenting the average condition of the existing piling, welds, and paint system.

#### **Task 2: Preliminary Geotechnical Investigation**

- Evaluate the existing As-Built LOTB and any available driving records.
- Collect and test up to three surface bag samples for gradation to assist with the scour assessment in Task 3.
- Determine the appropriate ARS curve to use based on Caltrans and USGS mapping.
- Evaluate liquefaction potential of the loose sands at the site.
- Prepare a preliminary foundation report per Caltrans guidelines.

### **Task 3: Preliminary Hydraulics Analysis**

- Obtain a cross section of the riverbed at each edge of the deck.
- Work with county provided hydraulic model and bag sample gradations to evaluate scour at the site.
- Prepare a preliminary hydraulics report and make scour recommendations.

### **Task 4: Seismic Analysis and Vulnerability Report**

- Based on results from the pile evaluation, preliminary geotechnical investigation, and preliminary hydraulics analysis the Consultant shall evaluate the bridge in accordance with Caltrans Memo to Designers 20-4.
- Prepare a seismic vulnerability report documenting the existing conditions and determine if there is a need for retrofit.
- Assist the County in submitting a funding request for rehabilitation/replacement to Caltrans.

## **PHASE 2: ENGINEERING DESIGN AND 100% CONTRACT DOCUMENTS**

This phase shall commence upon completion of Phase 1 and an "Authorization to Proceed" with PE has been obtained from Caltrans. Phase 2 consist of the engineering design and preparation of 100% contract documents consisting of plans, specifications, and cost estimates for the construction of this project. The scope of services will also include the necessary environmental studies, right of way services, and work scopes to assist the County in obtaining required State and Federal environmental permits and authorizations.

**\*DBE requirements apply to Phase 2 only.**

**\*The content following shall apply to Phase 2 of the scope of services.**

### **STRATEGY MEETING**

The Consultant shall be responsible for coordinating and scheduling a strategy meeting. At a minimum, representatives from the following fields shall attend the strategy meeting:

- Caltrans Structures
- Caltrans Earthquake Engineering
- Caltrans Hydraulics
- Caltrans Geotechnical
- Stanislaus County
- Consultant and relevant sub consultants



## **STRATEGY REPORT**

A draft Strategy Report comparing the project alternatives shall be submitted to the County for review. For the purposes of the environmental document, three to four project alternatives should be considered. The Consultant will also coordinate with Caltrans to determine the most practical project alternative. Once the County and Caltrans approve a specific project alternative, the Consultant shall prepare a Final Strategy Report. Suggested project alternatives may include but are not limited to:

- Retrofit existing bridge alternatives.
- Construct new bridge on new alignment and demolish existing bridge alternative.
- Based on the selected project alternative, the Consultant will conduct preliminary engineering, environmental documents, right of way services, final design, bid, and construction support for the project.

## **PROJECT MANAGEMENT**

The scope of comprehensive project management includes, but is not limited to, project management, quality assurance and control, and efficiently managing schedules of any sub-consultants involved in the project. Ultimately, the Consultant will be responsible for completing all project tasks in a timely fashion and diligently follow the anticipated schedule set forth for this project. On a monthly basis, the Consultant shall provide a letter-type progress report to brief the County on the project progress and, as necessary, hold Project Development Team (PDT) meetings. For the purposes of estimating project fees, assume a total of 24 meetings. Project schedule will be strictly enforced. Consultant must notify County of any issues that cause schedule delays.

## **PUBLIC OUTREACH**

Perform necessary public outreach, including public hearing and meetings as required to facilitate community involvement and to educate the community the importance of this bridge, and the current condition of the existing bridge in support of the environmental determination. The Consultant shall schedule all meetings, make arrangements for facilities, issue meetings notices, and prepare agenda and minutes. The Consultant will be required to obtain prior approval of the County Public Information Officer (through the County's Project Manager) for any communications with public media pertaining to the bridge engineering work. Public comments shall be recorded, provided with an appropriate response, and be considered in the design where appropriate. The Consultant shall be responsible for compiling all comments and recommendations for administrative and public review.

## **GEOTECHNICAL INVESTIGATION**

Provide a geotechnical report for the site as required for the completion of design, construction documents and permit applications. The geotechnical report shall include, but is not limited to an evaluation of the effects of any slope erosion and periodic land movements during extreme storm and seismic events.

## **TOPOGRAPHICAL SURVEY**

Perform a Topographic and Property Boundary Survey as needed. For these activities the Consultant will work in close coordination with the County. All Surveying and Mapping shall comply with the provisions of the Professional Land Surveyors Act, Sections 8700 to 8805 Business and Professions Code, the provisions of the California Coordinate System, Sections 8801 through 8819 of the Public Resources Code and any other applicable code in the State of California. If necessary, the design shall include any legal descriptions and plats for temporary construction easements (TCE) necessary for construction staging areas, and disposal areas for excess soil generated by project construction. The Consultant will include and verify any existing surveys, specify existing and proposed Right of Ways, land dedications and easement agreements. At a minimum, the Consultant will verify property lines at those locations where any portion of the project infringes upon the required setback limits or lies within 50 feet of project improvements, work areas, storage, and staging areas. Consultant should plan on filing a record of survey for any new right of way acquired.

The Consultant shall conduct a field topographical survey to be used for the roadway design. The survey shall also include boundary lines and monumentation necessary to prepare right of way maps. Consultant shall prepare plats, legal descriptions, and a final right of way map for use by the County in the acquisition of all necessary parcels and easements.

### **Datum:**

- Horizontal Control: Zone III, California Coordinate System of North American Datum 1983 (NAD83).
- Vertical Control: North American Vertical datum of 1988 (NAVD88). The Consultant shall coordinate with County surveyor to determine the primary vertical datum.

## **ENVIRONMENTAL**

Consultant shall complete all aspects of environmental review as required under NEPA and CEQA and obtain all permits required to comply with applicable federal, state and local environmental laws and regulations. Consultant shall pro-actively coordinate environmental review and permitting activities, in consultation with the County's Project Manager. Consultant will be expected to provide the County with active leadership in environmental review and permit decision-making, in the identification of opportunities to minimize cost and time delays. Consultant shall coordinate with environmental permitting agencies to identify and resolve potential environmental issues as early in the decision making process as feasible.

Consultant shall facilitate Caltrans' NEPA determination process by providing any needed technical support and by coordinating with Caltrans' environmental and technical staff as appropriate in the preparation and submittal of environmental technical information. NEPA work will include preparation and field review of the Preliminary

Environmental Study (PES) and preparation of required technical studies to Caltrans satisfaction. All NEPA work shall be prepared in accordance with the Caltrans Standard Environmental Reference (SER).

Consultant shall complete all required aspects of the CEQA review process for the County as Lead Agency, including preparation of draft environmental documents, conduct of the public review process, preparation of responses to comments, preparation of final documents, and filing of all required notices. All CEQA work shall conform to the latest version of the State CEQA Guidelines.

The Consultant shall, based on its experience, specify and explain the anticipated level of NEPA and CEQA review for the project, and describe the scope of work needed to complete these processes at the specified level. This would include identification of the required environmental impact review documents and supporting technical studies as well as work required to ensure that the environmental review processes are completed in accordance with the applicable standard and adequately documented.

Consultant shall identify and explain environmental permit requirements for the project and describe the scope of work required to obtain each permit. Potential permit requirements may include, but are not limited to the following:

- Section 404 Nationwide Permit from the U.S. Army Corps of Engineers
- Section 7 consultation with NMFS and USFWS
- Section 401 Water Quality Certification (or waiver, if applicable) from the California Regional Water Quality Control Board
- Streambed Alteration Agreement from the Department of Fish and Game
- A land use lease from the State Lands Commission,
- An encroachment permit from the Central Valley Flood Protection Board

#### **APPROACH ROADWAY DESIGN:**

The Consultant shall perform roadway design in accordance with the latest version of the Caltrans Highway Design Manual and County design standards and prepare design plans for construction. Design shall include details for traffic control plans in accordance with the Caltrans Manual of Uniform Traffic Control Devices.

#### **UTILITY DESIGN AND COORDINATION**

The Consultant shall be responsible for all electrical and lighting design that might be necessary to complete this project. A qualified licensed electrical engineer shall perform all electrical design.

The Consultant shall locate all existing utilities in the project area with the topographical survey and determine all potential conflicts. Once all existing utilities are identified in the field, the Consultant shall contact all corresponding utility companies and coordinate the relocation of all affected utilities. Consultant shall be responsible for coordinating the relocation of all existing utilities prior to start of project construction.

## **BRIDGE STRUCTURAL DESIGN**

The Consultant will perform structural and seismic design investigations, analysis, computations, and prepare detailed structural design plans for the proposed replacement bridge in accordance with the latest Caltrans bridge design techniques including a Foundation Study and Report and a Location Hydraulic Study. If required, a Type Selection Report shall be prepared for approval by the County and Caltrans Local Assistance. Additional tasks related to the design may include attending meetings such as design coordination meetings, pre-construction conferences, field reviews, field design inspections, and general site visits.

Standard construction materials shall be used in the design of the proposed bridge replacement wherever possible. Where specialized non-standard construction/building materials are required, the Consultant shall first obtain approval from the County prior to incorporating them into the design.

## **HYDRAULICS**

Hydraulics items may include but are not limited to items listed below. It will be the Consultants responsibility to determine the appropriate components for proper hydraulic analysis. Some of hydraulics related reports include but are not limited to:

- Scour Report: Determine the potential abutment, contraction and pier scour for the preferred project configuration. Determine the potential for degradation and channel migration considering historic changes in channel geometry and land use.
- Hydrologic Analysis: Identify the appropriate design flood. Prepare a flood frequency curve for the TID canal at the project site.
- Existing Condition Hydraulic Analysis: Prepare an existing condition stage discharge curve and flood profile at the bridge site. Identify the existing condition water surface profiles for the most probable 50- and 100-year floods, flood of record and identify the flow of the overtopping flood.
- Preliminary Project Hydraulic Analysis: Determine conveyance capacities and estimate the effects, if any, of the preliminary configurations on the water surface elevations of the most probable 100-year flood (FEMA Base Flood).
- Final Project Hydraulic Analysis: Prepare a final backwater model representing this bridge including additional project details. Using appropriate model, identify the water surface profiles of the Design Flood, Base Flood (most probable 100-year flood), and other floods of significance. Identify the minimum required conveyance capacity and the effects of the preferred bridge on risk of flood damage to structures. Determine hydraulic characteristics necessary for estimating potential scour. Prepare figures showing flood profiles and stage-discharge curves as appropriate.
- Final Report: Prepare final report with appropriate recommendations and provide two copies to the County for review.

## **RIGHT OF WAY SERVICES**

The fees for any reimbursable Preliminary Title Reports will be paid by the County. The Consultant shall tabulate the anticipated number of Preliminary Title Reports (and any associated fees) required for the project. This information shall be attached with the Fee Proposal and submitted inside the sealed envelope.

If necessary, the Consultant shall secure Rights of Entry agreements with all affected property owners.

Consultant shall be responsible for identifying any private right of way that may be affected by the Project. Consultant shall coordinate with property owners and County to acquire any required right of way in a timely fashion. Consultant shall plan right of way acquisition so that all right of way acquisitions are complete by the time final plans are delivered to the County. At that time, the Consultant shall prepare and obtain a Right of Way Certification per Caltrans guidelines and deliver it to the County.

Consultant shall be responsible for appraisal, appraisal review, acquisition/negotiation, and if necessary, relocation assistance. The County is seeking consultants who are able to perform and coordinate all of these tasks.

Right of way services shall be all inclusive. This means it will be the Consultant's responsibility to negotiate with any property owners and to keep records (minutes) of those negotiations.

## **PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E)**

### **Plans:**

- Project plans prepared by the Consultant shall be submitted to the County at the 30%, 60%, 90%, and 100% levels. All identified and affected existing utilities shall be accurately indicated on the plans. Plans at 60% should be of sufficient level to start right-of-way acquisition after environmental determination is achieved. The Consultant shall coordinate each submittal with County, Caltrans and any other agency that might have a stake in the project.
- The CAD files, including all topographical data, topographical surfaces, points, alignments, sites, corridors, and pipe networks must be prepared using AutoCAD Civil 3D 2010 format. Standard Caltrans abbreviations shall be strictly used throughout. For the 100% PS&E: One bond copy, one mylar copy, both stamped and signed, and all digital CAD files in appropriate County format shall be submitted the County.

### **Specifications:**

Consultant shall prepare Special Provisions relevant to the Project that will be used by

the County to advertise and construct the project. Three hard copies and one electronic copy on a CD of Special Provisions shall be delivered to the County after 100% plans are ready and signed by the engineer.

**Estimate:**

Project estimate prepared by the Consultant shall use Caltrans standard bid item descriptions wherever possible. Three hard copies and one electronic copy on a CD of the final signed and stamped engineer's estimate shall be delivered to the County after 100% plans are signed by the engineer.

**BIDDING AND CONSTRUCTION SUPPORT**

As part of the proposal, Consultant shall include bid support services that consist of assisting the County in responding to all Requests for Information (RFI) during the Project advertisement phase.

As part of the proposal, Consultant shall include services for limited engineering construction support. These services include responding to all Requests for Information (RFI), altering project plans to address any design flaws or inconsistencies, attendance of the pre-construction meeting, review of demolition plans, review of false work and shop drawings, and consultation for the construction contractor.

The Consultant shall modify final mylar plans to show final location and layout of all mechanical; electrical and instrumentation equipment; piping and conduits; structures and other facilities. As-built record drawings shall reflect change orders, accommodations, and adjustments to all improvements constructed. Final updated mylar as-built plans must be delivered to the County in a timely manner once the construction is complete

## **PROPOSAL REQUIREMENTS**

A Detail Scope of Services may be attached as an appendix at the end of proposal. A Detail Scope of Services shall not show any fees. The proposal should contain a detailed scope of work that demonstrates the requisite knowledge and experience and addresses anticipated requirements. The proposal should include all required tasks, as either proposed or optional services. The proposal should describe the methodology to be used, specific work to be performed, outcomes and work products. The proposal shall include a risk matrix for the project.

The proposal shall not exceed 20 pages (double sided is acceptable), not including resumes, no more than one sheet per resume, except for the principals, which may not exceed 2 pages each and no more than 3 principals may be listed (i.e. Project Engineer, Bridge Engineer/Architect, Principal in charge), including a cover letter. Any attachments/appendixes (such as Detail Scope of Services) will not be counted as part of the 20-page proposal limit. A digital copy of the proposal, in PDF format, shall be included with the original proposal.

The proposal should be succinct. The submitted material should focus on technical content that demonstrates experience and understanding in environmental process, bridge design and the availability and commitment of the firm and its team. Elaborate or glossy proposals are neither expected nor desired.

In its proposal to the County for doing all-inclusive (turnkey) consulting work for the Project, the consultant will provide the County with an outline of all tasks. Suggested outline is Caltrans WBS format. Outline will not be counted as part of the page limit.

- The Consultant shall follow the Caltrans Local Agency Procedure Manual (LAPM) for Federal Aid projects.
- As relevant studies are developed for this project, it is possible that discoveries might be made that would require the consultant to perform additional work for this project. Therefore, with this proposal, the consultant is to include a risk matrix that identifies potential risks and analyzes them as to cost, scope, and schedule impacts. The Risk Matrix will not be counted as part of the 20-page limit.
- In terms of environmental work, the Consultant is to submit a proposal based on the level of environmental assessment anticipated to be required by Caltrans environmental review for the Project. For the purposes of this proposal, the Consultant is to make reasonable assumption as to the level of environmental assessment and provide an explanation for their choice. The environmental sub-consultant shall follow the Caltrans Standard Environmental Reference (see [www.dot.ca.gov/ser](http://www.dot.ca.gov/ser)).
- The Consultant must include in their proposal a preliminary engineering construction cost estimate for budgeting purposes, for all anticipated proposed construction alternatives.

**DBE Requirements:**

- The agency has established a DBE goal for this contract of 12.5%.
- Use attachment(s) 3, 4, 5, etc.



## **SELECTION PROCEDURE**

The County shall select the Consultant based on the following procedure:

- Receive and evaluate the proposal and develop a short list.
- Check consultants DBE participation.
- If necessary, select and notify consultants to be interviewed.
- Develop final ranking of Consultants.
- Notify Consultants of the results.
- Conduct project scoping meeting with top ranked Consultant.
- Negotiate Contract with top ranked Consultant. If an agreement on the scope of services and compensation cannot be reached, negotiations with the top ranked Consultant will be closed, and negotiations with the next-highest ranked Consultant will be opened. The process is repeated until a contract is successfully negotiated.
- The selection process will follow Public Works' procedures for consultant selection, which generally follow Caltrans procedures. Consultants are chosen based on qualifications and the quality of the proposal as shown in Attachment 7 - Suggested Evaluation Sheet.

## **PROPOSAL SUBMITTAL**

Only that information specifically requested shall be submitted. If a Consultant recognizes a more efficient method of accomplishing specific tasks or items, the Consultant's fees shall reflect the County's requested work, and the cost increase/savings for the more efficient method shall be noted separately.

**If you wish to be considered for this project, submit three (3) hard copies of your proposal to this office by 5:00 p.m., on May 30, 2014 to:**

Sambath Chrun, Associate Civil Engineer  
Stanislaus County Department of Public Works  
1716 Morgan Road  
Modesto, CA 95358

Also, provide an electronic copy of your proposal (not including contents inside sealed Fee Schedule envelope) in PDF format. Include with the proposal, in a **SEPARATE, SEALED ENVELOPE**, your fee proposal. The fee proposal must separate the project into functional tasks (Project Management, Environmental/Permits, Civil, Traffic/Electrical, Right of Way/Public Relations, etc.), and provide the associated fees (not to exceed amount) that define the work to be accomplished. The fee proposal shall include hourly rates for staff and unit prices for various tasks for this project. Sub-consultant fees must be clearly indicated (if applicable).

The successful firm shall be required to enter into a Professional Design Services Agreement with Stanislaus County for the work to be performed. A sample Professional Design Services Agreement is included with this Request for Proposal. The consultant shall state in the submitted proposal that the firm has reviewed the Sample Professional Design Services Agreement, will meet all of the terms and conditions if selected by the County for the requested services, and be able to sign agreement as-is with no changes.

A copy of this Request for Proposal is available for viewing and download on the Modesto Reprographics website at [www.modestoplanroom.com](http://www.modestoplanroom.com). Please contact Modesto Reprographics at (209) 544-2400 for assistance using the website if needed. All questions regarding the RFP must be submitted **in writing**. Questions shall be submitted to Sambath Chrun at [chrns@stancounty.com](mailto:chrns@stancounty.com). Addendums, if necessary, will be posted on the Modesto Reprographics website.

# **Attachment A1**

## **Sample Fee Proposal**

<p>This is a "sample" for consultant's fees. The task shown below are for example purposes only and are not to be use to define project scope.</p> <div style="border: 1px solid black; padding: 2px; width: fit-content; margin-top: 5px;">Total cost for listed resources in \$</div>		Name of Prime Consultant						Sub-Consultant 1			Optional Services			Grand Total Hours	Other Direct Costs	Grand Total Cost	Optional Cost	
		Name Title	Name Title	Name Title	Name Title	Total Hours	Direct Costs	Total Cost	Total Hours	Direct Costs	Total Cost	Total Hours	Direct Costs					Total Cost
		\$	\$	\$	\$													
NO.	Task Description																	
1	Project Management																	
	1.1...																	
	1.2...																	
2	Topographic Survey																	
	1.1...																	
	1.2...																	
3	Geotechnical Investigation																	
	1.1...																	
	1.2...																	
4	Environmental / Permitting																	
	1.1...																	
	1.2...																	
5	Public Outreach																	
	1.1...																	
	1.2...																	
6	Right of Way																	
	1.1...																	
	1.2...																	
7	PS&E																	
	1.1...																	
	1.2...																	
8	Construction Support																	
	1.1...																	
	1.2...																	
	<b>TOTAL HOURS</b>																	
	<b>TOTAL COST</b>																	

\*Other Direct Costs such as material reproduction, travel, and project specific materials, etc. shall be included in overhead rate and not charged separately.

**Attachment A2**

**Exhibit 10-I**

**Notice to Proposers DBE Information**

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**EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION**

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

OR

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

**1. TERMS AS USED IN THIS DOCUMENT**

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

**2. AUTHORITY AND RESPONSIBILITY**

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

**3. SUBMISSION OF DBE INFORMATION**

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

**4. DBE PARTICIPATION GENERAL INFORMATION**

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).

- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
  - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
  - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
  - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

## 5. RESOURCES

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

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

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

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the

purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.



**Attachment A3**

**Exhibit 10-J**

**Standard Agreement for Sub-Consultants/DBE  
Participation**

**EXHIBIT 10-J STANDARD CONTRACT PROVISIONS FOR SUBCONSULTANT/DBE PARTICIPATION****1. Subconsultants**

- A. Nothing contained in this Contract or otherwise, shall create any contractual relation between the Agency and any subconsultants, and no subcontract shall relieve the Consultant of his/her responsibilities and obligations hereunder. The Consultant agrees to be as fully responsible to the Agency for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Consultant. The Consultant's obligation to pay its subconsultants is an independent obligation from the Agency's obligation to make payments to the Consultant.
- B. Any subcontract in excess of \$25,000, entered into as a result of this Contract, shall contain all the provisions stipulated in this Contract to be applicable to subconsultants.
- C. Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to the Consultant by the Agency.
- D. Any substitution of subconsultants must be approved in writing by the Agency's Contract Administrator in advance of assigning work to a substitute subconsultant.

**2. Disadvantaged Business Enterprise (DBE) Participation**

- A. This Contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Proposers who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. If the contract has a DBE goal, the Consultant must meet the goal by committing DBE participation or document a good faith effort to meet the goal. If a DBE subconsultant is unable to perform, the Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met. A DBE is a firm meeting the definition of a DBE as specified in 49 CFR.
- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the local agency deems appropriate.
- D. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
- E. A DBE may be terminated only with prior written approval from the local agency and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting local agency consent for the termination, the prime consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

**3. Performance of DBE Consultant and other DBE Subconsultants/Suppliers**

- A. A DBE performs a commercially useful function 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 commercially useful function, 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 commercially useful function, 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.
- B. A DBE does not perform a commercially useful function 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.
- C. If a DBE does not perform or exercise responsibility for at least 30 percent 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 commercially useful function.

**4. Prompt Payment of Funds Withheld to Subconsultants**

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.  
*(Local agency to include either B, C, or D below; delete the other two.)*
- B. No retainage will be withheld by the Agency from progress payments due the prime Consultant. Retainage by the prime Consultant or subconsultants is prohibited, and no retainage will be held by the prime Consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime Consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime Consultants and subconsultants.
- C. No retainage will be held by the Agency from progress payments due the prime Consultant. Any retainage held by the prime Consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime Consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

- D. The Agency shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

#### 5. DBE Records

- A. The Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- B. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants," CEM-2402F (Exhibit 17-F, Chapter 17, of the LAPM), certified correct by the Consultant or the Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 25 percent of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

#### 6. DBE Certification and Decertification Status

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

**Attachment A4**

**Exhibit 10-O1**

**Consultant Proposal DBE Commitment  
(\*Required to be submitted with proposal)**

**EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT**

(Inclusive of all DBEs listed at bid proposal. Refer to instructions on the reverse side of this form)

<b>Consultant to Complete this Section</b>			
1. Local Agency Name: _____			
2. Project Location: _____			
3. Project Description: _____			
4. Consultant Name: _____			
5. Contract DBE Goal %: _____			
<b>DBE Commitment Information</b>			
6. Description of Services to be Provided	7. DBE Firm Contact Information	8. DBE Cert. Number	9. DBE %
<b>Local Agency to Complete this Section</b>			10. Total % Claimed
16. Local Agency Contract Number: _____			_____ %
17. Federal-aid Project Number: _____			
18. Proposed Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			11. Preparer's Signature _____
19. Local Agency Representative Name (Print) _____			12. Preparer's Name (Print) _____
20. Local Agency Representative Signature _____		21. Date _____	
22. Local Agency Representative Title _____			13. Preparer's Title _____
		14. Date _____	
		15. (Area Code) Tel. No. _____	
		23. (Area Code) Tel. No. _____	

**Distribution:** (1) Original – Consultant submits to local agency with proposal  
 (2) Copy – Local Agency files

**INSTRUCTIONS - CONSULTANT PROPOSAL DBE COMMITMENT****Consultant Section**

*The Consultant shall:*

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
4. **Consultant Name** - Enter the consultant's firm name.
5. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I *Notice to Proposers DBE Information* form. See LAPM Chapter 10.
6. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
7. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
8. **DBE Cert. Number** - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
9. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
10. **Total % Claimed** – Enter the total DBE participation claimed. If the Total % Claimed is less than item “6. Contract DBE Goal”, an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H *DBE Information - Good Faith Efforts* of the LAPM).
11. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
12. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
13. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
14. **Date** - Enter the date this section of the form is signed by the preparer.
15. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

**Local Agency Section:**

*The Local Agency representative shall:*

16. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
17. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
18. **Contract Execution Date** - Enter date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
19. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
20. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
21. **Date** - Enter the date the Local Agency Representative signs the form.
22. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
23. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

**Attachment A5**

**Exhibit 10-O2**

**Consultant Contract DBE Information  
(\*Required to be submitted with proposal)**



**EXHIBIT 10-02 CONSULTANT CONTRACT DBE INFORMATION**

(Inclusive of all DBEs listed at contract award. Refer to instructions on the reverse side of this form)

<b>Consultant to Complete this Section</b>			
1. Local Agency Name: _____			
2. Project Location: _____			
3. Project Description: _____			
4. Total Contract Award Amount: \$ _____			
5. Consultant Name: _____			
6. Contract DBE Goal %: _____			
7. Total Dollar Amount for <u>all</u> Subconsultants: \$ _____			
8. Total Number of <u>all</u> Subconsultants: _____			
<b>Award DBE/DBE Information</b>			
9. Description of Services to be Provided	10. DBE/DBE Firm Contact Information	11. DBE Cert. Number	12. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>		13. Total Dollars Claimed \$ _____	14. Total % Claimed _____ %
20. Local Agency Contract Number: _____			
21. Federal-aid Project Number: _____		15. Preparer's Signature _____ 16. Preparer's Name (Print) _____ 17. Preparer's Title _____ 18. Date _____ 19. (Area Code) Tel. No. _____	
22. Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			
23. Local Agency Representative Name (Print) _____			
24. Local Agency Representative Signature _____	25. Date _____	18. Date _____ 19. (Area Code) Tel. No. _____	
26. Local Agency Representative Title _____	27. (Area Code) Tel. No. _____		
<b>Caltrans to Complete this Section</b>			
Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:		18. Date _____ 19. (Area Code) Tel. No. _____	
28. DLAE Name (Print) _____	29. DLAE Signature _____	30. Date _____	

**Distribution:** (1) Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.  
 (2) Copy – Include in award package sent to Caltrans DLAE  
 (3) Original – Local agency files

**INSTRUCTIONS - CONSULTANT CONTRACT AWARD DBE INFORMATION****Consultant Section***The Consultant shall:*

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
4. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
5. **Consultant Name** - Enter the consultant's firm name.
6. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I *Notice to Proposers DBE Information* form. See LAPM Chapter 10.
7. **Total Dollar Amount for all Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
8. **Total number of all subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
9. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
10. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
11. **DBE Cert. Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
12. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE, and include DBEs that are not identified as subconsultants on the Exhibit 10-O1 *Consultant Proposal DBE Commitment* form. See LAPM Chapter 9 for how to count full/partial participation.
13. **Total Dollars Claimed** – Enter the total dollar amounts for column 13.
14. **Total % Claimed** – Enter the total DBE participation claimed for column 13. SUM = (item "14. Total Participation Dollars Claimed" divided by item "4. Total Contract Award Amount"). If the Total % Claimed is less than item "6. Contract DBE Goal", an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H *DBE Information - Good Faith Efforts* of the LAPM).
15. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
16. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
17. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
18. **Date** - Enter the date this section of the form is signed by the preparer.
19. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

**Local Agency Section:***The Local Agency representative shall:*

20. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
21. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
22. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
23. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
24. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
25. **Date** - Enter the date the Local Agency Representative signs the form.
26. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
27. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

**Caltrans Section:***Caltrans District Local Assistance Engineer (DLAE) shall:*

28. **DLAE Name (Print)** – Clearly enter the name of the DLAE.
29. **DLAE Signature** – DLAE must sign this section of the form to certify that it has been reviewed for completeness.
30. **Date** - Enter the date that the DLAE signs this section the form.

## **Attachment A6**

### **Sample Design Services Agreement and Addendum to Professional Design Services**

# SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

## STANISLAUS COUNTY PROFESSIONAL DESIGN SERVICES AGREEMENT

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and \_\_\_\_\_ hereinafter referred to as "Consultant".

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

### **1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT**

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-Discrimination. During the performance of this Agreement, Consultant and

## SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. Consultant and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Covenant Against Contingent Fees. Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she 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, the local agency 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.

## 2.0 COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed \_\_\_\_\_ . Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subcontractors at the hourly rates specified in the Fee Schedule. The Fee Schedule rates include direct salary costs, employee benefits, and overhead. The rates stated

## SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

in the Fee Schedule are not adjustable during the term of this Agreement. The County may retain ten percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in each Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B unless the County or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

### **3.0 TIME OF PERFORMANCE**

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit "D", attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to

## SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

### 4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue until the work required herein is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

### 5.0 INSURANCE REQUIREMENTS

## SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

5.1. Minimum Scope and Limits of Insurance. Consultant, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain, at minimum, compliance with all of the following insurance coverage(s) and requirements. If Consultant normally carries insurance in an amount greater than the minimum amount listed below, that greater amount shall become the minimum required amount of insurance for purposes of this Agreement. The insurance listed below shall have a retroactive date of placement prior to, or coinciding with, the date services are first provided that are governed by the terms of this Agreement:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000), combined single limits, per occurrence and aggregate. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except Professional Liability insurance and Workers Compensation insurance, naming the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers as additional insureds for at least three years after the completion of the work to be performed under this Agreement, but, to the extent that any insurance issued to Consultant in effect after the expiration of three years provides additional insured coverage to parties Consultant agreed in writing to name as an additional insured, then Consultant shall have the obligation under this contract to obtain such additional insured coverage for the County, under any and all policies Consultant has regarding:

- (a) Liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Consultant, including the insured's general supervision of its subcontractors;
- (b) Ongoing services, products and completed operations of the Consultant;
- (c) Premises owned, occupied or used by the Consultant; and



## SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

- (d) Automobiles owned, leased, hired or borrowed by the Consultant.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Consultant.

5.3. Deductibles: Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant's defense and indemnification obligations as set forth in this Agreement.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary insurance regarding the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers. Any insurance or self-insurance maintained by the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Any and all insurances carried by it shall be deemed liability coverage for any and all actions it performs in connection with this Contract.

## SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

5.7. Cancellation of Insurance: Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies. Consultant shall maintain such coverage in effect for three (3) years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-:VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance.

5.9. Subcontractors: Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

### 6.0 INDEMNIFICATION

6.1. Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnitee") from and against any and all claims, suits, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, (collectively, "losses") which are founded upon, arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the County, its agents, employees, and representatives. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

6.2. Duty to Defend: The duty of Consultant to indemnify and save harmless as set

## SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

forth herein, shall include both the duty to indemnify and at Consultant's own cost and expense the duty to defend as set forth in Section 2778 of the California Civil Code and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

6.3. Duty to Cooperate: Each party shall notify the other party within ten (10) days in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement. Specifically, Consultant shall take all steps necessary to assist the County in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

6.4. Patent Rights: Consultant represents that professional services provided by Consultant pursuant to this Agreement does not infringe on any other copyrighted work. Consultant shall defend, indemnify and hold harmless the County from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the County of any articles or services supplied under this agreement.

6.5. The foregoing provisions shall survive the term and termination of this Agreement.

### 7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

**SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000**

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: \_\_\_\_\_
- b. Lead/Manager: \_\_\_\_\_

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

**If to County:**  
[Insert Contact & Address]

**If to Consultant:**  
[Insert Contact & Address]

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

## SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

7.11. Confidentiality: The Consultant agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided, unless such disclosure is required by law.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County

## SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000

may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

**SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000**

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

(SIGNATURES ON THE NEXT PAGE)

**SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

**COUNTY OF STANISLAUS**

**[Insert Name]**

By: \_\_\_\_\_  
Matt Machado, Director  
Department of Public Works

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

**APPROVED AS TO FORM:**

John P. Doering  
County Counsel

By: \_\_\_\_\_  
Thomas E. Boze  
Deputy County Counsel

Board Resolution No.: \_\_\_\_\_



**SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000**

**EXHIBIT A**

**COUNTY'S REQUEST FOR PROPOSAL**

**SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000**

**EXHIBIT B**

**CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL**

**SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000**

**EXHIBIT C**

**CONSULTANTS FEE SCHEDULE**

**SAMPLE AGREEMENT FOR PROJECTS UNDER \$500,000**

**EXHIBIT D**

**PROJECT SCHEDULE**

**SAMPLE ADDENDUM**

**STANISLAUS COUNTY**  
Addendum to Professional Design Services Agreement  
for Federally Funded Projects over \$150,000

Consultant:

Project:

\*\*\*\*\*

In addition to, and notwithstanding, the requirements set forth in the Professional Design Services Agreement, CONSULTANT agrees to the following:

**1. CONFIDENTIALITY OF DATA**

- A. All financial, statistical, personal, technical, or other data and information relative to the COUNTY's operations, which are designated confidential by the COUNTY and made available to the CONSULTANT in order to carry out this contract, shall be protected by the CONSULTANT from unauthorized use and disclosure.
- B. Permission to Disclose information on one occasion, or public hearing held by the COUNTY relating to the contract, shall not authorize the CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. The CONSULTANT shall not comment publicly to the press or any other media regarding the contract or the COUNTY's actions on the same, except to the COUNTY's staff, CONSULTANT's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.
- D. The CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the COUNTY, and receipt of the COUNTY's written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

**2. CONFLICT OF INTEREST**

- A. The 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. The CONSULTANT shall also list current clients who may have a financial

# SAMPLE ADDENDUM

interest in the outcome of this agreement, or any ensuing COUNTY construction project, which will follow.

- B. The CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this agreement.
- C. Any subcontract in excess of \$25,000 entered into as a result of this agreement, shall contain all of the provisions of this Article.
- D. The CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with the CONSULTANT will bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Except for subcontractors whose services are limited to providing surveying or materials testing information, no subcontractor who has provided design services in connection with this agreement shall be eligible to bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement.

### **3. COST PRINCIPLES**

- A. The CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.
- B. The CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to the COUNTY.

### **4. COST PROPOSAL**

The Cost Proposal is subject to an audit or Certified Public Accountant (CPA) Indirect Cost (Overhead) Audit Workpaper Review. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the COUNTY's Contract Manager to conform to the Workpaper Review recommendations or audit

## SAMPLE ADDENDUM

recommendations. The CONSULTANT agrees that individual terms of cost identified in the audit report shall be incorporated into the Agreement by this reference if directed by the COUNTY at its sole discretion. Refusal by the CONSULTANT to incorporate the Workpaper Review recommendations or audit recommendations will be considered a breach of the Agreement terms and cause for termination of the Agreement.

### **5. DEBARMENT AND SUSPENSION CERTIFICATION**

- A. The CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, 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 the 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.

### **6. EQUIPMENT PURCHASE**

- A. Prior authorization, in writing, by the COUNTY shall be required before the CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. The 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 the CONSULTANT'S Cost Proposal and exceeding \$5,000 prior authorization by the COUNTY; three 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

## SAMPLE ADDENDUM

useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the COUNTY shall receive a proper refund or credit at the conclusion of the agreement, or if the agreement is terminated, the CONSULTANT may either keep the equipment and credit the COUNTY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established COUNTY procedures; and credit the COUNTY in an amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be determined at the CONSULTANT'S expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the COUNTY and the CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the COUNTY."

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

### **7. FUNDING REQUIREMENTS**

- A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the agreement were executed after that determination was made.
- B. This agreement is valid and enforceable only, if sufficient funds are made available to the COUNTY for the purpose of this contract. In addition, this agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature or COUNTY governing board that may affect the provisions, terms, or funding of this contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. The COUNTY has the option to void the contract under the 30-day cancellation clause, or by mutual agreement to amend the contract to reflect any reduction of funds.

### **8. INSPECTION OF WORK**

The CONSULTANT and any subcontractor shall permit the COUNTY, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the



# SAMPLE ADDENDUM

performance period of this contract including review and inspection on a daily basis.

## 9. NONDISCRIMINATION

- A. During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:
- B. Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, “DOT”) Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- C. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- D. Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contract for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.
- E. Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the COUNTY or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the COUNTY, or the FHWA as

## SAMPLE ADDENDUM

appropriate, and shall set forth what efforts it has made to obtain the information.

- F. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the COUNTY shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
- G. Withholding of payments to the contractor under the contract until the contractor complies, and/or
- H. Cancellation, termination or suspension of the contract, in whole or in part.
- I. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the COUNTY or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that , in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the COUNTY to enter into such litigation to protect the interests of the COUNTY, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **10. PERFORMANCE PERIOD**

- A. This agreement shall go into effect on \_\_\_\_\_, contingent upon approval by the COUNTY, and the CONSULTANT shall commence work after notification to proceed by the COUNTY. The agreement shall end on \_\_\_\_\_, unless extended by agreement amendment.
- B. The CONSULTANT is advised that any recommendation for agreement award is not binding on the COUNTY until the agreement is fully executed and approved by the COUNTY.

### **11. PROHIBITION OF EXPENDING LOCAL AGENCY, STATE OR FEDERAL FUNDS FOR LOBBYING CLAUS**

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

## SAMPLE ADDENDUM

- B. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of the 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.
- C. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- E. The 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.

### **12. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (LOBBYING CLAUSE)**

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

## SAMPLE ADDENDUM

### **13. REIMBURSEMENT OF TRAVEL & SUBSISTENCE**

COUNTY agrees to pay pre-approved travel and subsistence expenses per the COUNTY's Travel Policy.

### **14. RETENTION OF RECORDS/AUDIT**

A. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; the CONSULTANT, subcontractors, and the COUNTY shall maintain 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 years from the date of final payment under the agreement. The state, the State Auditor, COUNTY, FHWA, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the CONSULTANT that are pertinent to the agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

B. Subcontracts in excess of \$25,000 shall contain this provision.

### **15. SALARY ESCALATION**

The CONSULTANT will be allowed salary increases as shown in EXHIBIT C.

### **16. STATE PREVAILING WAGE RATES**

A. The CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 177, and all federal, state, and local laws and ordinances applicable to the work.

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

**SAMPLE ADDENDUM**

**17. SUBCONTRACTING**

- A. The CONSULTANT shall perform the services with resources available within its own organization; and no portion of the work pertinent to this agreement shall be subcontracted without written authorization by the COUNTY, except that, which is expressly identified in the approved Cost Proposal.
- B. Any subcontract in excess of \$25,000 entered into as a result of this agreement, shall contain all the provisions stipulated in this agreement to be applicable to subcontractors.
- C. Any substitution of subcontractors must be approved in writing by the COUNTY.

**IN WITNESS WHEREOF**, the parties hereto have caused this Addendum to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

[INSERT COMPANY NAME]

By: \_\_\_\_\_  
Matt Machado, Director  
Department of Public Works

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

APPROVED AS TO FORM:  
John P. Doering  
County Counsel

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

By: \_\_\_\_\_  
Thomas E. Boze  
Deputy County Counsel

**(END OF ADDENDUM)**

**Attachment A7**

**Exhibit 10-B**

**Suggested Consultant Evaluation Sheet**

EXHIBIT 10-B SUGGESTED CONSULTANT EVALUATION SHEET

SUGGESTED EVALUATION SHEET*		
Criteria	Maximum Points	Rating
Understanding of the work to be done	25	
Experience with similar kinds of work	20	
Quality of staff for work to be done	15	
Capability of developing innovative or advanced techniques	10	
Familiarity with state and federal procedures	10	
Financial responsibility	10	
Demonstrated Technical Ability	10	
Total	100	

\*Notes:

1. To maintain the integrity of a competitive negotiation/qualifications based selection procurement, the total of all allowable non-qualifications based evaluation criterion (such as locality preference or DBE participation) cannot exceed ten (10) percent of the total evaluation criteria. The ten percent limitation applies only to non-qualifications based evaluation criterion and should not be considered as a limitation for specific DBE contract goals established by a contracting agency in accordance with its approved DBE program. (see [http://www.fhwa.dot.gov/programadmin/172qa\\_07.cfm](http://www.fhwa.dot.gov/programadmin/172qa_07.cfm)).
2. For projects other than "Architectural & Engineering" services, as defined in Section 10.1, cost is one of the criteria, or may be the sole criterion. DBE participation by the consultant shall not be used as one of those criteria listed above.
3. The evaluation criteria and suggested maximum points shown above are not mandatory, but are recommended in the interest of maintaining consistency among the hundreds of agencies utilizing federal or state funds.
4. The evaluation criteria and weighted value must be identified in the RFP. If the RFP has different evaluation criteria or weighed values then the information above would have to be changed to match.
5. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and requirements are met.

Distribution: Local Agency Project Files

**Attachment A8**

**Exhibit 10-K**

**Consultant Certification of Contract Cost and  
Financial Management System**



EXHIBIT 10-K CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM

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

Certification of Final Indirect Costs:

Consultant Firm Name: \_\_\_\_\_

Indirect Cost Rate: \_\_\_\_\_

Fiscal Period Covered for Indirect Cost Rate Developed (mm/dd/yyyy to mm/dd/yyyy): \_\_\_\_\_

Date of Proposal Preparation (mm/dd/yyyy): \_\_\_\_\_

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

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

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

Certification of Financial Management System:

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

Certification of Dollar Amount for all A&E contracts:

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

Certification of Direct Costs:

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

- 1. Compliant with Generally Accepted Accounting Principles (GAAP) and standards promulgated by the Cost Accounting Standards Board (when applicable).

Consultant Certification of Costs and Financial Management System

- 2. Compliant with the terms of the contract and is incurred specifically for the contract.
- 3. Not prohibited by 23 CFR, Chapter 1, Part 172 –Administration of Engineering and Design Related Service Contracts to the extent requirements are applicable to Consultant.

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

**Subconsultants (if applicable)**

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

**Prime Consultants (if applicable)**

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

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

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

\* Consultant Certification Signature: \_\_\_\_\_

Consultant Certifying (Print Name and Title):

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Consultant Contact Information:

Email: \_\_\_\_\_

Phone number: \_\_\_\_\_

Date of Certification (mm/dd/yyyy): \_\_\_\_\_

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

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

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

**Attachment A9**

**Exhibit 10-F**

**Certification of Consultant, Commissions and  
Fees**

**EXHIBIT 10-F CERTIFICATION OF CONSULTANT, COMMISSIONS & FEES**

I HEREBY CERTIFY that I am the \_\_\_\_\_, and duly authorized representative of the firm of \_\_\_\_\_, whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this contract.

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

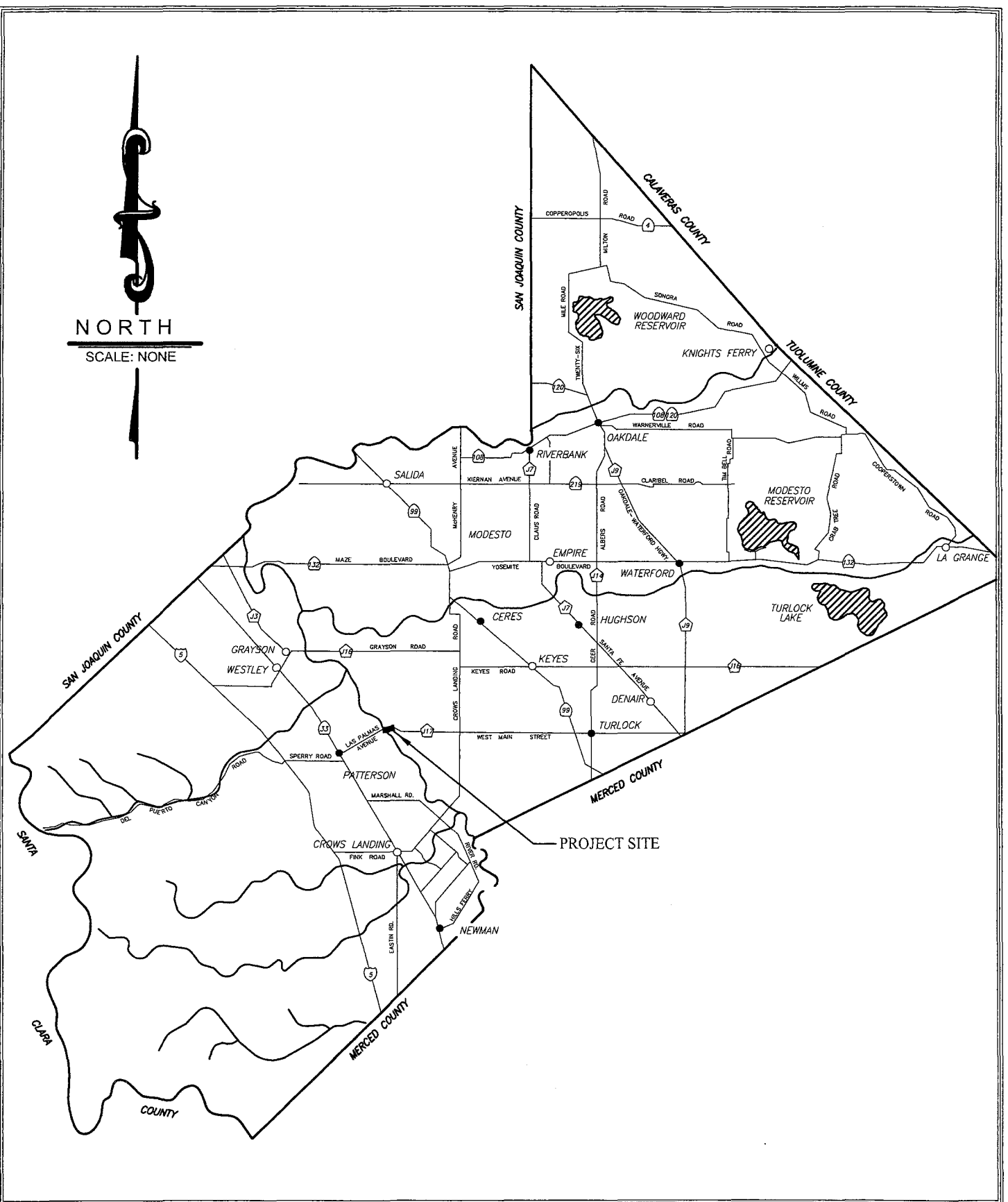
\_\_\_\_\_  
(Date)


\_\_\_\_\_  
(Signature)

**Distribution:** 1) Local Agency Project File (Original & Contract)  
2) DLAE (with contract copy)

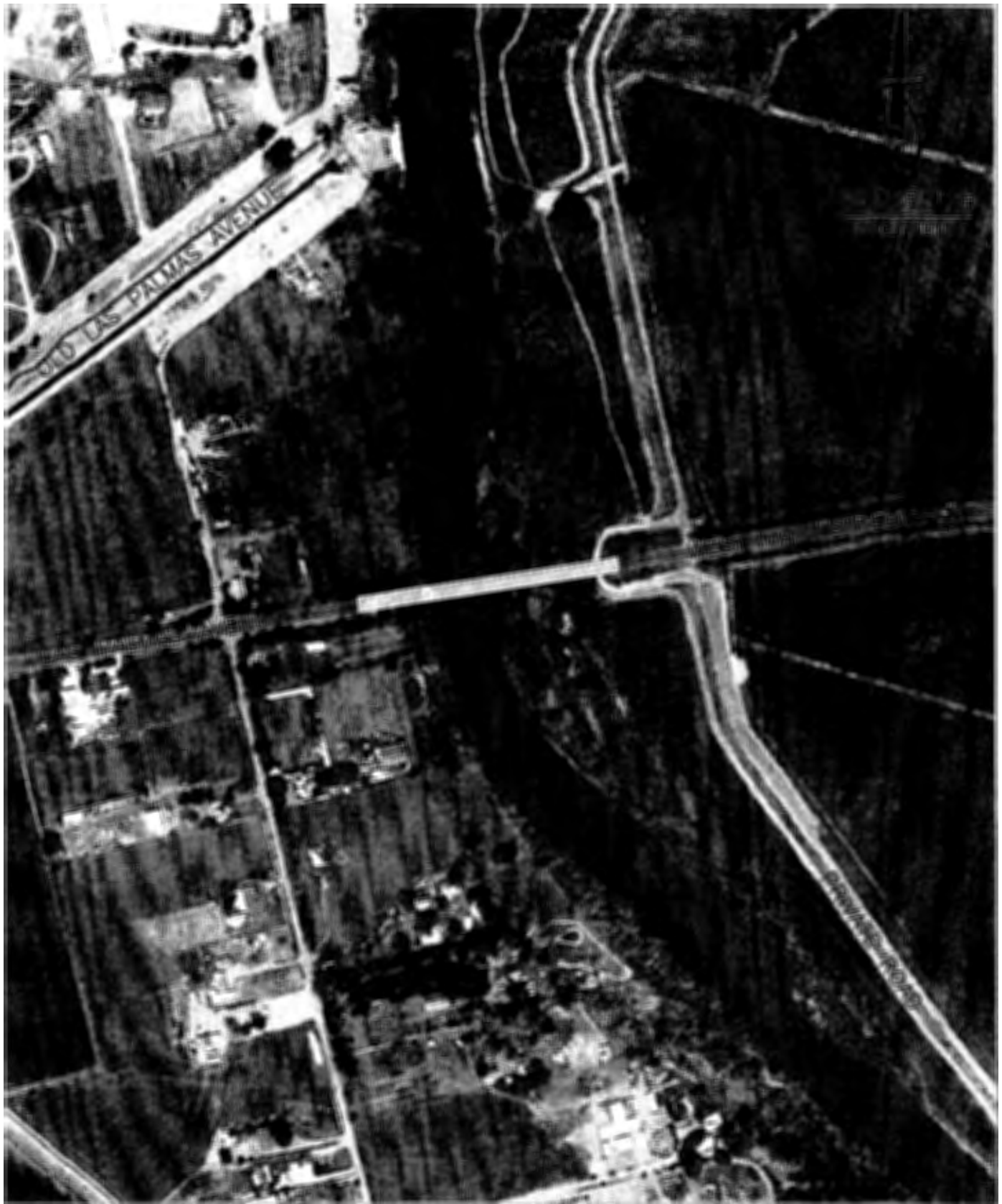
## **Attachment A10**

### **Project Vicinity Map and Location Map**



**Stanislaus**  
  
**STANISLAUS COUNTY**  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING AND OPERATIONS DIVISION  
1716 MORGAN ROAD - MODESTO, CA 95338

PROJECT VICINITY MAP  
LAS PALMAS AVENUE OVER SAN JOAQUIN RIVER  
BRIDGE PROJECT  
STATE BRIDGE NO.: 38-C0033



**STANISLAUS COUNTY**

DEPARTMENT OF PUBLIC WORKS  
ENGINEERING AND OPERATIONS DIVISION  
1716 MORGAN ROAD - MODESTO, CA 95358

PROJECT LOCATION MAP  
LAS PALMAS AVENUE OVER SAN JOAQUIN RIVER  
BRIDGE PROJECT  
STATE BRIDGE 38-C0033

**Attachment A11**  
**Caltrans Bridge Report**





DEPARTMENT OF TRANSPORTATION  
Structure Maintenance & Investigations

Bridge Number : 38C0033  
Facility Carried: LAS PALMAS AVENUE  
Location : 3 MI N/E STATE ROUTE 33  
City :  
Inspection Date : 09/18/2013

## Bridge Inspection Report

Inspection Type  
Routine  FC Underwater  Special  Other

STRUCTURE NAME: SAN JOAQUIN RIVER

### CONSTRUCTION INFORMATION

Year Built : 1959 Skew (degrees): 0  
Year Widened: N/A No. of Joints : 4  
Length (m) : 197.5 No. of Hinges : 4

Structure Description: RC continuous slab on RC (4) steel pile bents and RC winged diaphragm abutments on concrete piles.

Span Configuration : 1 @ 6.9 m, 20 @ 9.1 m, 1 @ 6.9 m

### SAFE LOAD CAPACITY AND RATINGS

Design Live Load: MS-18 OR HS-20  
Inventory Rating: 22.7 metric tons Calculation Method: FIELD EVAL/ENG JUDGMENT  
Operating Rating: 37.2 metric tons Calculation Method: FIELD EVAL/ENG JUDGMENT  
Permit Rating : P P P P P  
Posting Load : Type 3: Legal Type 3S2: Legal Type 3-3: Legal

### DESCRIPTION ON STRUCTURE

Deck X-Section: 0.1 m r, 9.8 m, 0.1 m r

Total Width: 10.0 m Net Width: 9.8 m No. of Lanes: 2 Speed: 45 mph

Min. Vertical Clearance: Unimpaired

Rail Code: 1111

Rail Type	Location	Length (ft)	Rail Modifications
Type 116	Right/Left	1378	

### DESCRIPTION UNDER STRUCTURE

Channel Description: Unlined -- sand with sacked concrete riprap @ both abutments. Upstream at right.

### INSPECTION COMMENTARY

#### SCOPE AND ACCESS

At the time of this investigation, there was approximately 3 to 5 feet of water in the channel from Spans 3 to 8 and dry under the remaining spans. A complete investigation of all the elements above the water line in Spans 3 - 8 was performed from the adjacent spans.

#### REVISIONS

Element 201 - Unpainted Steel Column/Pile Extension: replaced Element 202 (Painted Steel Column/Pile Extension) with 64 each at Condition State 1 and 20 each (Bents 4 through 8) at Condition State 2.

#### MISCELLANEOUS

The underside photos were taken at this time and are included in this bridge inspection report. See attached photos #1 and 2.

**INSPECTION COMMENTARY****DECK AND ROADWAY**

There is dirt on the four (4) deck expansion joints in Spans 4, 9, 14 and 19. All the bolts on the steel plates of all joints under the soffit are still intact. See attached photo #3.

**SUPERSTRUCTURE**

There are a few random 0.02 inch wide longitudinal soffit cracks with efflorescence in Spans 5, 6, 16, 17 and also on the left side of Span 22. These soffit cracks are up to 24 inches in length. See attached photo #4.

There is a 0.01 inch wide longitudinal soffit crack with no efflorescence along the centerline as observed at the end spans. See attached photo #5.

**SUBSTRUCTURE**

Moderate graffiti was observed under Abutment 1.

All the steel column pile extensions have general surface rust along their entire length with pitting at the bottom 5 feet. The steel column pile extensions in Bents 4 thru 9 exhibit more pitting due to their contact with water. See attached photo #6.

**SAFE LOAD CAPACITY**

The load rating for this structure is being reviewed by the SM&I Ratings Branch. An updated Load Rating Summary Sheet will be archived when this review is complete. The current rating is based on CDC computer output/hand calculations dated 11/30/1972.

<b><u>ELEMENT INSPECTION RATINGS</u></b>										
Elem No.	Element Description	Env	Total		Qty in each Condition State					
			Qty	Units	St. 1	St. 2	St. 3	St. 4	St. 5	
39	Concrete Slab - Unprotected w/ AC Overlay	2	1975	sq.m.	1975	0	0	0	0	0
201	Unpainted Steel Column or Pile Extension	2	84	ea.	64	20	0	0	0	0
215	Reinforced Conc Abutment	2	20	m.	20	0	0	0	0	0
227	Reinforced Conc Submerged Pile	2	1	ea.	1	0	0	0	0	0
256	Slope Protection	2	2	ea.	2	0	0	0	0	0
338	Metal Railing (W8X31 Posts)	2	420	m.	420	0	0	0	0	0
349	Sliding Steel Plates	2	40	m.	40	0	0	0	0	0

**WORK RECOMMENDATIONS** - NONE

Team Leader : Ronnie H. Le *Ronnie H. Le*  
Report Author : Ronnie H. Le  
Inspected By : RH.Le/AG.Groess

*AG* *1/6/14*  
\_\_\_\_\_  
Armin G. Groess (Registered Civil Engineer) (Date)



STRUCTURE INVENTORY AND APPRAISAL REPORT

\*\*\*\*\* IDENTIFICATION \*\*\*\*\*

(1) STATE NAME- CALIFORNIA 069
(8) STRUCTURE NUMBER 38C0033
(5) INVENTORY ROUTE (ON/UNDER) - ON 140000000
(2) HIGHWAY AGENCY DISTRICT 10
(3) COUNTY CODE 099 (4) PLACE CODE 00000
(6) FEATURE INTERSECTED- SAN JOAQUIN RIVER
(7) FACILITY CARRIED- LAS PALMAS AVENUE
(9) LOCATION- 3 MI N/E STATE ROUTE 33
(11) MILEPOINT/KILOMETERPOINT 0
(12) BASE HIGHWAY NETWORK- NOT ON NET 0
(13) LRS INVENTORY ROUTE & SUBROUTE
(16) LATITUDE 37 DEG 29 MIN 38.2 SEC
(17) LONGITUDE 121 DEG 04 MIN 48.85 SEC
(98) BORDER BRIDGE STATE CODE % SHARE %
(99) BORDER BRIDGE STRUCTURE NUMBER

\*\*\*\*\* STRUCTURE TYPE AND MATERIAL \*\*\*\*\*

(43) STRUCTURE TYPE MAIN:MATERIAL- CONCRETE CONT
TYPE- SLAB CODE 201
(44) STRUCTURE TYPE APPR:MATERIAL- OTHER/NA
TYPE- OTHER/NA CODE 000
(45) NUMBER OF SPANS IN MAIN UNIT 22
(46) NUMBER OF APPROACH SPANS 0
(107) DECK STRUCTURE TYPE- CIP CONCRETE CODE 1
(108) WEARING SURFACE / PROTECTIVE SYSTEM:
A) TYPE OF WEARING SURFACE- BITUMINOUS CODE 6
B) TYPE OF MEMBRANE- NONE CODE 0
C) TYPE OF DECK PROTECTION- NONE CODE 0

\*\*\*\*\* AGE AND SERVICE \*\*\*\*\*

(27) YEAR BUILT 1959
(106) YEAR RECONSTRUCTED 0000
(42) TYPE OF SERVICE: ON- HIGHWAY 1
UNDER- WATERWAY 5
(28) LANES:ON STRUCTURE 02 UNDER STRUCTURE 00
(29) AVERAGE DAILY TRAFFIC 10543
(30) YEAR OF ADT 2007 (109) TRUCK ADT 13 %
(19) BYPASS, DETOUR LENGTH 24 KM

\*\*\*\*\* GEOMETRIC DATA \*\*\*\*\*

(48) LENGTH OF MAXIMUM SPAN 9.1 M
(49) STRUCTURE LENGTH 197.5 M
(50) CURB OR SIDEWALK: LEFT 0.0 M RIGHT 0.0 M
(51) BRIDGE ROADWAY WIDTH CURB TO CURB 9.8 M
(52) DECK WIDTH OUT TO OUT 10.0 M
(32) APPROACH ROADWAY WIDTH (W/SHOULDERS) 12.5 M
(33) BRIDGE MEDIAN- NO MEDIAN 0
(34) SKEW 0 DEG (35) STRUCTURE FLARED NO
(10) INVENTORY ROUTE MIN VERT CLEAR 99.99 M
(47) INVENTORY ROUTE TOTAL HORIZ CLEAR 9.8 M
(53) MIN VERT CLEAR OVER BRIDGE RDWY 99.99 M
(54) MIN VERT UNDERCLEAR REF- NOT H/RR 0.00 M
(55) MIN LAT UNDERCLEAR RT REF- NOT H/RR 0.0 M
(56) MIN LAT UNDERCLEAR LT 0.0 M

\*\*\*\*\* NAVIGATION DATA \*\*\*\*\*

(38) NAVIGATION CONTROL- NO CONTROL CODE 0
(111) PIER PROTECTION- CODE
(39) NAVIGATION VERTICAL CLEARANCE 0.0 M
(116) VERT-LIFT BRIDGE NAV MIN VERT CLEAR M
(40) NAVIGATION HORIZONTAL CLEARANCE 0.0 M

\*\*\*\*\*

SUFFICIENCY RATING = 67.2
STATUS
HEALTH INDEX 96.7
PAINT CONDITION INDEX = N/A

\*\*\*\*\* CLASSIFICATION \*\*\*\*\*

(112) NBIS BRIDGE LENGTH- YES Y
(104) HIGHWAY SYSTEM- NOT ON NHS 0
(26) FUNCTIONAL CLASS- MAJOR COLLECTOR RURAL 07
(100) DEFENSE HIGHWAY- NOT STRAHNET 0
(101) PARALLEL STRUCTURE- NONE EXISTS N
(102) DIRECTION OF TRAFFIC- 2 WAY 2
(103) TEMPORARY STRUCTURE-
(105) FED.LANDS HWY- NOT APPLICABLE 0
(110) DESIGNATED NATIONAL NETWORK - NOT ON NET 0
(20) TOLL- ON FREE ROAD 3
(21) MAINTAIN- COUNTY HIGHWAY AGENCY 02
(22) OWNER- COUNTY HIGHWAY AGENCY 02
(37) HISTORICAL SIGNIFICANCE- NOT ELIGIBLE 5

\*\*\*\*\* CONDITION \*\*\*\*\*

(58) DECK 7
(59) SUPERSTRUCTURE 7
(60) SUBSTRUCTURE 6
(61) CHANNEL & CHANNEL PROTECTION 8
(62) CULVERTS N

\*\*\*\*\* LOAD RATING AND POSTING \*\*\*\*\*

(31) DESIGN LOAD- MS-18 OR HS-20 5
(63) OPERATING RATING METHOD- FIELD EVAL/ENG JUD 0
(64) OPERATING RATING- 37.2
(65) INVENTORY RATING METHOD- FIELD EVAL/ENG JUD 0
(66) INVENTORY RATING- 22.7
(70) BRIDGE POSTING- EQUAL TO OR ABOVE LEGAL LOADS 5
(41) STRUCTURE OPEN, POSTED OR CLOSED- A
DESCRIPTION- OPEN, NO RESTRICTION

\*\*\*\*\* APPRAISAL \*\*\*\*\*

(67) STRUCTURAL EVALUATION 5
(68) DECK GEOMETRY 4
(69) UNDERCLEARANCES, VERTICAL & HORIZONTAL N
(71) WATER ADEQUACY 9
(72) APPROACH ROADWAY ALIGNMENT 6
(36) TRAFFIC SAFETY FEATURES 1111
(113) SCOUR CRITICAL BRIDGES 5

\*\*\*\*\* PROPOSED IMPROVEMENTS \*\*\*\*\*

(75) TYPE OF WORK- REPLACE FOR DEFICIENC CODE 31
(76) LENGTH OF STRUCTURE IMPROVEMENT 197.5 M
(94) BRIDGE IMPROVEMENT COST \$4,512,600
(95) ROADWAY IMPROVEMENT COST \$902,520
(96) TOTAL PROJECT COST \$7,581,168
(97) YEAR OF IMPROVEMENT COST ESTIMATE 2010
(114) FUTURE ADT 14668
(115) YEAR OF FUTURE ADT 2032

\*\*\*\*\* INSPECTIONS \*\*\*\*\*

(90) INSPECTION DATE 09/13 (91) FREQUENCY 24 MO
(92) CRITICAL FEATURE INSPECTION: (93) CFI DATE
A) FRACTURE CRIT DETAIL- NO MO A)
B) UNDERWATER INSP- NO MO B)
C) OTHER SPECIAL INSP- NO MO C)

# SAN JOAQUIN RIVER

3 MI N/E STATE ROUTE 33

09/18/2013 [AAAAI]

38C0033

135 - PHOTO-Routine-Underside



Photo No. 1

Underside from Span 2

135 - PHOTO-Routine-Underside



Photo No. 2

Underside from Span 9, look toward Abutment 1

**SAN JOAQUIN RIVER**

**3 MI N/E STATE ROUTE 33**

**09/18/2013 [AAAI]**

**38C0033**

**127 - PHOTO-Joint-Misc.**



**Photo No. 3**

**Bottom of the hinge line (typ)**

**112 - PHOTO-Super-Fatigue/Cracking**



**Photo No. 4**

**Soffit cracks (typ)**

**SAN JOAQUIN RIVER**

3 MI N/E STATE ROUTE 33

09/18/2013 [AAAI]

38C0033

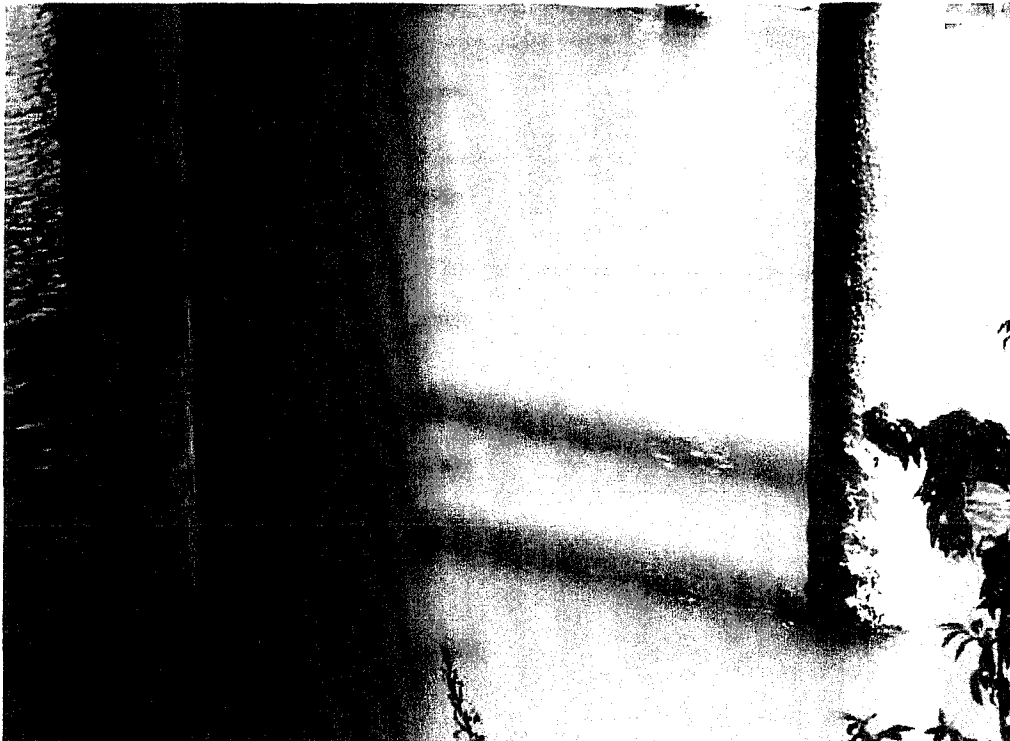
112 - PHOTO-Super-Fatigue/Cracking



**Photo No. 5**

**Soffit cracks under the end spans (typ)**

117 - PHOTO-Sub-Misc.



**Photo No. 6**

**Bottom of column submerged in water**

**Attachment A12**

**Existing Project Documents**

**Caltrans As-Built Log of Test Boring**



**EXHIBIT B  
CONSULTANT'S RESPONSE**



## DETAILED SCOPE OF WORK (5/30/2014)

### PHASE I – VULNERABILITY STUDY

#### TASK 1.0 PROJECT MANAGEMENT (WBS 100)

##### **Task 1.1 Meetings and Coordination (WBS 100.10.05 & 100.15.05)**

Dokken Engineering will organize, attend, and facilitate meetings as necessary to provide progress updates, coordinate between technical disciplines, and facilitate overall project communication. For each meeting, Dokken Engineering will provide meeting notices, prepare meeting materials and agenda, attend and facilitate the meeting and prepare meeting minutes. Dokken Engineering will consult with the County's project manager prior to each meeting to get input regarding the agenda. The following meetings are anticipated for this project:

- **Kick-off Meeting:** At the start of the project, Dokken Engineering will organize a kick-off meeting with all key personnel on the project. The purpose of this meeting will be to review the goals and objectives of the project, discuss each team member's role and responsibilities, identify critical project issues and obtain consensus on task durations, particularly reviews.
- **PDT Meetings:** The project development team (PDT) meetings will serve as the primary forum for reviewing the status of the project and identifying and resolving project issues. Attendees will include Dokken Engineering's Project Manager, consultant task leads as needed, County and Caltrans staff and other stakeholders as necessary. For this phase of the project, Dokken Engineering will attend and facilitate up to 5 PDT meetings.
- **Technical Coordination Meetings:** Dokken Engineering will coordinate technical design issues with the County, Caltrans and others through meetings and correspondence. Dokken Engineering will prepare for and facilitate up to 6 technical meetings, as needed.

**Deliverable:** Meeting notices, agendas and minutes

##### **Task 1.2 Project Administration (WBS 100.05.10)**

Dokken Engineering will monitor and control the effort and progress of the services as follows:

- **Set up Project Accounting System:** Dokken Engineering will structure the accounting system in accordance with the County's invoicing and tracking needs.
- **Prepare Subconsultant Agreements:** Dokken Engineering will execute contracts with the subconsultants for the scope of services described herein.
- **Monitor Subconsultant Progress and Review/Approve Invoices:** Dokken Engineering will track the work progress of the subconsultants and review their invoices for format and content compliance.
- **Prepare Progress Reports and Client Invoices:** Dokken Engineering will prepare a progress report to record the progress of the project and as supporting data for the invoice presented monthly to the County. The Progress Report will include accomplished tasks for the month, anticipated progress for the next month, pending issues and schedule completion target dates. Dokken Engineering will mail the progress report with the monthly invoice.
- **Prepare, Monitor and Adjust CPM Schedule:** Dokken Engineering will, within 2 weeks of Notice to Proceed, provide a detailed project baseline schedule to the County for review and comment. The schedule will be prepared using Microsoft Project and will show milestones, major activity deliverables and critical path tasks. Dokken Engineering will update the schedule on a monthly basis, to coincide with PDT meetings, or as required.

**Deliverable:** Monthly Progress Report & Invoice; Project Schedule



## TASK 2.0 VULNERABILITY STUDY

### **Task 2.1 Piling and Piling Extension Condition Evaluation**

Crawford and Associates, Inc. (CAInc) will complete a pile condition evaluation. A visual condition assessment of the existing welds will be performed at up to 5 pile circumferential splices and up to 5 spiral weld locations using a certified weld inspector. They will perform an Ultrasonic Thickness test at up to 100 locations, including up to 50 locations within assessable channel locations. Additionally, in order to evaluate the average condition of the paint on the piling, paint samples will be collected from up to 5 piles. The samples will be tested for metal by a certified and accredited testing laboratory.

**Deliverable:** *Pile, Weld and Paint Condition Report*

### **Task 2.2 Preliminary Geotechnical Investigation**

CAInc will prepare a Preliminary Foundation Memorandum for use in a structural evaluation. The Preliminary Foundation Memorandum will include limited field sampling, development of a site-specific ARS curve, and laboratory gradations to aid in a liquefaction analysis.

The memorandum will be based on available subsurface data (including existing bridge data and strategy reports), as-built drawings, published geologic mapping and seismicity data, aerial photographs, preliminary project data and site review. CAInc will perform 3-4 shallow borings (20 to 30 feet deep) to collect relatively undisturbed samples for laboratory grainsize testing to aid in liquefaction and scour analysis. The borings will be completed under or adjacent to the existing bridge alignment, outside of the river.

The Preliminary Foundation Memorandum will summarize anticipated earth materials and conditions based on reference data, limited subsurface exploration, site exposures; provide seismic input parameters consistent with current Caltrans practice (including development of ARS curve); discuss roadway approaches and pavement options; evaluate bank erosion, channel scour, soil liquefaction and lateral spreading potential; and discuss foundation alternatives for both rehabilitation and replacement options.

**Deliverable:** *Preliminary Foundation Memorandum*

### **Task 2.3 Preliminary Hydraulics Analysis**

Dokken Engineering will obtain and review the County's existing condition hydraulic model for the project site. Following are the tasks anticipated as part of this effort:

- Field verify the river cross sections and roughness coefficient parameters used in the model to confirm that the model is representative of the current river conditions.
- Obtain river cross sections at each edge of deck and update those cross sections in the model.
- Obtain soil samples from the river banks and perform a sieve analysis for use in evaluating the scour potential at the bridge.
- Review the bridge geometry in the model to confirm it matches the existing conditions.
- Review the flow frequencies and associated starting water surface elevations in the model and compare to the frequencies needed for the hydraulic analysis. If additional frequencies are needed, Dokken Engineering will develop the flows and boundary conditions for the required frequencies, using existing data available from the U.S. Army Corp of Engineers, Central Valley Flood Protection Board, FEMA, and nearby gaging stations.

Upon completion of these tasks, Dokken Engineering will conduct a detailed hydraulic analysis to evaluate the freeboard, overtopping, and stage increases using the 50-, 100- and 200-year frequencies as required by the various agencies with jurisdiction in this project area (U.S. Army Corps of Engineers, Stanislaus County, FEMA and Central Valley Flood Protection Board). Dokken Engineering will also conduct an existing condition scour analysis considering pier, abutment,



and contraction scour. The potential for aggradation or degradation will also be evaluated based on a review of any recent survey data together with historic data collected from USGS quadrangles.

Dokken Engineering will prepare a Preliminary Hydraulic Design Report to document the hydraulic and scour concerns associated with the existing bridge including providing scour countermeasure recommendations. The preliminary report will be submitted to the County and Caltrans for review. Comments on the preliminary report will be addressed and the report will be updated and finalized.

**Deliverable:** *Preliminary Hydraulic Design Report*

**Task 2.4 Seismic Analysis and Vulnerability Report**

Structural analysis of the existing bridge, including loading for both service and seismic, will be performed. In this analysis, reduced section properties based on the pile condition evaluation will be used. The seismic analysis will conform to Caltrans Memo to Designers 20-4 and the Caltrans Seismic Design Criteria. The existing structure factored loading and capacity analysis will be performed in conformance with AASHTO LRFD Standard Bridge Design Specifications. Dokken Engineering will also provide recommendations for lowering the bridge sufficiency rating if significant structural deficiencies are found. The results of our analysis will be provided in a Vulnerability Report. The Vulnerability Report will include summaries of all deficiencies and recommendations for rehabilitation, seismic retrofit, widening or replacement of the bridge. The draft report will be submitted to the County for review and comment. Upon completion of the County's review, Dokken Engineering will modify the report and resubmit it to the County and to Caltrans.

**Deliverable:** *Draft and Final Vulnerability Report*

**– END OF PHASE I –**

**EXHIBIT C  
CONSULTANT'S FEE SCHEDULE**



May 30, 2014

Mr. Sambath Chrun, PE  
 Stanislaus County Department of Public Works  
 1716 Morgan Road  
 Modesto, CA 95358

**RE: Cost Proposal for All-Inclusive Bridge Engineering Services  
 Las Palmas Avenue over San Joaquin River  
 Federal Project No.: BRLS-5938(200); State Bridge No.: 38C-0033**

Dear Mr. Chrun:

Enclosed please find our cost proposal for all-inclusive bridge engineering services for the Las Palmas Avenue over San Joaquin River project. It includes a summary by task consistent with our Scope of Services, a cost plus fixed fee breakdown, and a detailed estimate by task and classification-hours. The total cost reflects an assumed bridge replacement alternative. If rehabilitation is the chosen alternative, our cost proposal can be negotiated down. We propose to deliver the subject project for a total not-to-exceed cost summarized as follows:

**PHASE 1: VULNERABILITY STUDY**

Task 1 - Project Management	\$ 10,593
Task 2 - Vulnerability Study	\$ 103,260

**PHASE 2: ENGINEERING DESIGN AND 100% CONTRACT DOCUMENTS**

Task 3 - Project Management	\$ 81,965
Task 4 - Topographic Mapping/Right of Way Mapping	\$ 44,338
Task 5 - Geotechnical Investigations	\$ 114,130
Task 6 - Traffic Studies	\$ 13,092
Task 7 - Strategy Determination	\$ 51,125
Task 8 - Environmental Documentation	\$ 159,366
Task 9 - Environmental Permitting	\$ 44,668
Task 10 - Public Outreach	\$ 22,204
Task 11 - Hydraulics and Drainage	\$ 24,001
Task 12 - Right of Way	\$ 79,579
Task 13 - Utility Coordination	\$ 18,569
Task 14 - Final Design	\$ 310,545
Task 15 - Bidding/Award Assistance	\$ 14,906
Task 16 - Construction Support	\$ 76,476

**Total Not-to-Exceed: \$ 1,168,821.**

These services can be started immediately upon receipt of a Notice to Proceed from the County.

Also included are our Exhibit 10-02: *Local Agency Proposer DBE Information*, and Exhibit 10-K: *Consultant Certification of Contract Costs and Financial Management System* for Dokken Engineering and each of our first-tier subconsultants. Our team includes trusted DBEs with a total commitment for Phase 2 of 14.13 percent.

Thank you for the opportunity to work with the County on this important project. If you have any questions regarding the cost proposal, or need additional information, please contact me at (916) 858-0642.

Sincerely,

Juann Ramos, PE  
 Project Manager

39091JR/ML/cos

**EXHIBIT D  
PROJECT SCHEDULE**





**STANISLAUS COUNTY**  
Addendum to Professional Design Services Agreement

Consultant: Dokken Engineering  
Project: Las Palmas Avenue over San Joaquin River Bridge Replacement Project  
Contract No.: 9298  
Federal Project No.: BRLS-5938(200)  
Award Date & Board Resolution No. 09-16-2014, No. 2014-480

\*\*\*\*\*

In addition to, and notwithstanding, the requirements set forth in the Professional Design Services Agreement, CONSULTANT agrees to the following:

**1. CERTIFICATION OF CONSULTANT, COMMISSIONS & FEES**

Exhibit 10-F – (attachment)

**2. CONFIDENTIALITY OF DATA**

- A. All financial, statistical, personal, technical, or other data and information relative to the COUNTY's operations, which are designated confidential by the COUNTY and made available to the CONSULTANT in order to carry out this contract, shall be protected by the CONSULTANT from unauthorized use and disclosure.
- B. Permission to Disclose information on one occasion, or public hearing held by the COUNTY relating to the contract, shall not authorize the CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. The CONSULTANT shall not comment publicly to the press or any other media regarding the contract or the COUNTY's actions on the same, except to the COUNTY's staff, CONSULTANT's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.
- D. The CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the COUNTY, and receipt of the COUNTY's written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

**3. CONFLICT OF INTEREST**

- A. The 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. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this agreement, or any ensuing COUNTY construction project, which will follow.
- B. The CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this agreement.
- C. Any subcontract in excess of \$25,000 entered into as a result of this agreement, shall contain all of the provisions of this Article.
- D. The CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with the CONSULTANT will bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Except for subcontractors whose services are limited to providing surveying or materials testing information, no subcontractor who has provided design services in connection with this agreement shall be eligible to bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement.

**4. CONSULTANT'S ENDORSEMENT OF PS&E/OTHER DATA:**

- A. The CONSULTANT/engineer shall sign all Plans, Specifications and Estimates (PS&E) and engineering data furnished under the contract including registration number.

**5. COST PRINCIPLES**

- A. The CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.
- B. The CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Federal

Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to the COUNTY.

**6. COST PROPOSAL**

The Cost Proposal is subject to an audit or Certified Public Accountant (CPA) Indirect Cost (Overhead) Audit Workpaper Review. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the COUNTY's Contract Manager to conform to the Workpaper Review recommendations or audit recommendations. The CONSULTANT agrees that individual terms of cost identified in the audit report shall be incorporated into the Agreement by this reference if directed by the COUNTY at its sole discretion. Refusal by the CONSULTANT to incorporate the Workpaper Review recommendations or audit recommendations will be considered a breach of the Agreement terms and cause for termination of the Agreement.

**7. DEBARMENT AND SUSPENSION CERTIFICATION**

- A. The CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, 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 the 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.

**8. FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES**

Exhibit 17-F -- (attachment)

**9. EQUIPMENT PURCHASE**

- A. Prior authorization, in writing, by the COUNTY shall be required before the CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. The 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 the CONSULTANT'S Cost Proposal and exceeding \$5,000 prior authorization by the COUNTY; three 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 years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the COUNTY shall receive a proper refund or credit at the conclusion of the agreement, or if the agreement is terminated, the CONSULTANT may either keep the equipment and credit the COUNTY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established COUNTY procedures; and credit the COUNTY in an amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be determined at the CONSULTANT'S expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the COUNTY and the CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the COUNTY."
- D. All subcontracts in excess \$25,000 shall contain the above provisions.

## **10. FUNDING REQUIREMENTS**

- A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the agreement were executed after that determination was made.
- B. This agreement is valid and enforceable only, if sufficient funds are made available to the COUNTY for the purpose of this contract. In addition, this agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature or COUNTY governing board that may affect the provisions, terms, or funding of this contract in any manner.

- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. The COUNTY has the option to void the contract under the 30-day cancellation clause, or by mutual agreement to amend the contract to reflect any reduction of funds.

## **11. INSPECTION OF WORK**

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

## **12. NONDISCRIMINATION**

- A. During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:
- B. Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, “DOT”) Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- C. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- D. Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contract for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.

- E. Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the COUNTY or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the COUNTY, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- F. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the COUNTY shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
- G. Withholding of payments to the contractor under the contract until the contractor complies, and/or
- H. Cancellation, termination or suspension of the contract, in whole or in part.
- I. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the COUNTY or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that , in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the COUNTY to enter into such litigation to protect the interests of the COUNTY, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

### 13. PERFORMANCE PERIOD

- A. This agreement shall go into effect on **September 16, 2014**, contingent upon approval by the COUNTY, and the CONSULTANT shall commence work after notification to proceed by the COUNTY. The agreement shall end on **November 30, 2014**, unless extended by agreement amendment.
- B. The CONSULTANT is advised that any recommendation for agreement award is not binding on the COUNTY until the agreement is fully executed and approved by the COUNTY.

**14. PROHIBITION OF EXPENDING LOCAL AGENCY, STATE OR FEDERAL FUNDS FOR LOBBYING CLAUS**

- A. The CONSULTANT certifies to the best of his or her knowledge and belief that:
- B. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of the 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.
- C. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- E. The 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.

**15. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (LOBBYING CLAUSE)**

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

such rebate, kickback or other unlawful consideration.

**16. REIMBURSEMENT OF TRAVEL & SUBSISTENCE**

COUNTY agrees to pay pre-approved travel and subsistence expenses per the COUNTY's Travel Policy.

**17. RETENTION OF RECORDS/AUDIT**

A. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; the CONSULTANT, subcontractors, and the COUNTY shall maintain 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 years from the date of final payment under the agreement. The state, the State Auditor, COUNTY, FHWA, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the CONSULTANT that are pertinent to the agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

B. Subcontracts in excess of \$25,000 shall contain this provision.

**18. SALARY ESCALATION**

The CONSULTANT will be allowed salary increases as shown in EXHIBIT C.

**19. STATE PREVAILING WAGE RATES**

A. The CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 177, and all federal, state, and local laws and ordinances applicable to the work.

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



**20. SUBCONSULTANT DBE PARTICIPATION**

Exhibit 10-J – (attachment)

**21. SUBCONTRACTING**

- A. The CONSULTANT shall perform the services with resources available within its own organization; and no portion of the work pertinent to this agreement shall be subcontracted without written authorization by the COUNTY, except that, which is expressly identified in the approved Cost Proposal.
- B. Any subcontract in excess of \$25,000 entered into as a result of this agreement, shall contain all the provisions stipulated in this agreement to be applicable to subcontractors.
- C. Any substitution of subcontractors must be approved in writing by the COUNTY.

**22. REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

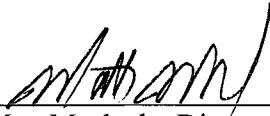
FHWA-1273 – (attachment)

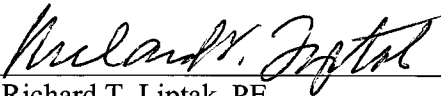
**(SIGNATURES ON FOLLOWING PAGE)**

**IN WITNESS WHEREOF**, the parties hereto have caused this Addendum to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

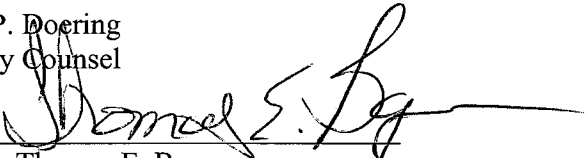
DOKKEN ENGINEERING

By:   
Matt Machado, Director  
Department of Public Works

By:   
Richard T. Liptak, PE  
President

APPROVED AS TO FORM:

John P. Doering  
County Counsel

By:   
Thomas E. Boze  
Deputy County Counsel

# ATTACHMENTS

- Exhibit 10-F – Certification of Consultant, Commissions & Fees
- Exhibit 10-J – Standard Contract Provisions for Subconsultant/DBE Participation
- Exhibit 17-F – Final Report-Utilization of Disadvantaged Business Enterprises
- FHWA-1273 – Required Contract Provisions Federal-Aid Construction Contracts

**EXHIBIT 10-F CERTIFICATION OF CONSULTANT, COMMISSIONS & FEES**

I HEREBY CERTIFY that I am the \_\_\_\_\_, and duly authorized representative of the firm of \_\_\_\_\_, whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this contract.

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

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

  
\_\_\_\_\_  
(Signature)

**Distribution:** 1) Local Agency Project File (Original & Contract)  
2) DLAE (with contract copy)

**EXHIBIT 10-J STANDARD CONTRACT PROVISIONS FOR SUBCONSULTANT/DBE PARTICIPATION****1. Subconsultants**

- A. Nothing contained in this Contract or otherwise, shall create any contractual relation between the Agency and any subconsultants, and no subcontract shall relieve the Consultant of his/her responsibilities and obligations hereunder. The Consultant agrees to be as fully responsible to the Agency for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Consultant. The Consultant's obligation to pay its subconsultants is an independent obligation from the Agency's obligation to make payments to the Consultant.
- B. Any subcontract in excess of \$25,000, entered into as a result of this Contract, shall contain all the provisions stipulated in this Contract to be applicable to subconsultants.
- C. Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to the Consultant by the Agency.
- D. Any substitution of subconsultants must be approved in writing by the Agency's Contract Administrator in advance of assigning work to a substitute subconsultant.

**2. Disadvantaged Business Enterprise (DBE) Participation**

- A. This Contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Proposers who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. If the contract has a DBE goal, the Consultant must meet the goal by committing DBE participation or document a good faith effort to meet the goal. If a DBE subconsultant is unable to perform, the Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met. A DBE is a firm meeting the definition of a DBE as specified in 49 CFR.
- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the local agency deems appropriate.
- D. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
- E. A DBE may be terminated only with prior written approval from the local agency and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting local agency consent for the termination, the prime consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

**3. Performance of DBE Consultant and other DBE Subconsultants/Suppliers**

- A. A DBE performs a commercially useful function 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 commercially useful function, 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 commercially useful function, 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.
- B. A DBE does not perform a commercially useful function 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.
- C. If a DBE does not perform or exercise responsibility for at least 30 percent 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 commercially useful function.

**4. Prompt Payment of Funds Withheld to Subconsultants**

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.  
*(Local agency to include either B, C, or D below; delete the other two.)*
- B. No retainage will be withheld by the Agency from progress payments due the prime Consultant. Retainage by the prime Consultant or subconsultants is prohibited, and no retainage will be held by the prime Consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime Consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime Consultants and subconsultants.
- C. No retainage will be held by the Agency from progress payments due the prime Consultant. Any retainage held by the prime Consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime Consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

- D. The Agency shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

#### **5. DBE Records**

- A. The Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- B. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants," CEM-2402F (Exhibit 17-F, Chapter 17, of the LAPM), certified correct by the Consultant or the Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 25 percent of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

#### **6. DBE Certification and Decertification Status**

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

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

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

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

CEM-2402F (REV 02/2008)

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

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

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

CONTRACTOR REPRESENTATIVE'S SIGNATURE		BUSINESS PHONE NUMBER	DATE
TO THE BEST OF MY INFORMATION AND BELIEF, THE ABOVE INFORMATION IS COMPLETE AND CORRECT			
RESIDENT ENGINEER'S SIGNATURE		BUSINESS PHONE NUMBER	DATE

- Copy Distribution-Caltrans contracts:
- Original - District Construction
- Copy- Business Enterprise Program
- Copy- Contractor
- Copy Resident Engineer
- Copy Distribution-Local Agency contracts:
- Original - District Local Assistance Engineer  
(submitted with the Report of Expenditure)
- Copy- District Local Assistance Engineer
- Copy- Local Agency file



**Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors**

FINAL REPORT – UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE), FIRST-TIER SUBCONTRACTORS  
CEM 2402(F) (Rev. 02/2008)

The form requires specific information regarding the construction project: Contract Number, County, Route, Post Miles, Federal-aid Project No., the Administering Agency, the Contract Completion Date and the Estimated Contract Amount. It requires the prime contractor name and business address. The focus of the form is to describe who did what by contract item number and descriptions, asking for specific dollar values of item work completed broken down by subcontractors who performed the work both DBE and non-DBE work forces. DBE prime contractors are required to show the date of work performed by their own forces along with the corresponding dollar value of work.

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

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

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

The decision of which column to be used for entering the DBE dollar value is based on what program(s) status the firm is certified. This program status is determined by the California Unified Certification Program by ethnicity, gender, ownership, and control issues at time of certification. To confirm the certification status and program status, access the Department of Transportation Civil Rights web site at:

<http://www.dot.ca.gov/hq/bep> or by calling (916) 324-1700 or the toll free number at (888) 810-6346.

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

DBE Program Status	Column to be used
If program status shows DBE only with no other programs listed	DBE

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

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

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

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

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

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

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

**II. NONDISCRIMINATION**

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees

##### a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.



## VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the

contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

#### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

#### **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

##### **1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. 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 31 U.S.C. 1352. 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.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

**Female and Minority Goals**

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000.

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

**Minority Utilization Goals**

Economic Area		Goal (Percent)
174	Redding CA: Non-SMSA Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehema	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA	28.9
	CA Monterey	
	7360 San Francisco-Oakland	25.6
	CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	
	7400 San Jose, CA	
	CA Santa Clara, CA	19.6
	7485 Santa Cruz, CA	
	CA Santa Cruz	14.9
177	7500 Santa Rosa	
	CA Sonoma	9.1
	8720 Vallejo-Fairfield-Napa, CA	
	CA Napa; CA Solano	17.1
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	23.2
178	Sacramento, CA: SMSA Counties: 6920 Sacramento, CA	16.1
	CA Placer; CA Sacramento; CA Yolo	
	Non-SMSA Counties	14.3
	CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	
179	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA	12.3
	CA Stanislaus	
	8120 Stockton, CA	24.3
	CA San Joaquin	
	Non-SMSA Counties	19.8
179	CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Toulumne	
	Fresno-Bakersfield, CA SMSA Counties: 0680 Bakersfield, CA	19.1
	CA Kern	
	2840 Fresno, CA	26.1
	CA Fresno	
Non-SMSA Counties:	23.6	

	CA Kings; CA Madera; CA Tulare	
180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA CA Orange 4480 Los Angeles-Long Beach, CA CA Los Angeles 6000 Oxnard-Simi Valley-Ventura, CA CA Ventura 6780 Riverside-San Bernardino-Ontario, CA CA Riverside; CA San Bernardino 7480 Santa Barbara-Santa Maria-Lompoc, CA CA Santa Barbara Non-SMSA Counties CA Inyo; CA Mono; CA San Luis Obispo	11.9 28.3 21.5 19.0 19.7 24.6
181	San Diego, CA: SMSA Counties 7320 San Diego, CA CA San Diego Non-SMSA Counties CA Imperial	16.9 18.2

For each July during which work is performed under the contract, you and each non-material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

### Training

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of your equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

You have primary responsibility for meeting this training requirement.

If you subcontract a contract part, determine how many trainees or apprentices are to be trained by the subcontractor.

Include these training requirements in your subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of your needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, submit to the City/County of \_\_\_\_\_:

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

Obtain the City/County of \_\_\_\_\_'s approval for this submitted information before you start work. The City/County of \_\_\_\_\_ credits you for each apprentice or trainee you employ on the work who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeymen status. Make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area. Show that you have made the efforts. In making these efforts, do not discriminate against any applicant for training.

Do not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

Ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. Your records must show the employee's answers to the questions.

In your training program, establish the minimum length and training type for each classification. The City/County of \_\_\_\_\_ and FHWA approves a program if one of the following is met:

1. It is calculated to:
  - 1.1. Meet the your equal employment opportunity responsibilities
  - 1.2. Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period
2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training and it is administered in a way consistent with the equal employment responsibilities of federal-aid highway construction contracts

Obtain the State's approval for your training program before you start work involving the classification covered by the program.

Provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The City/County of \_\_\_\_\_ reimburses you 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a federal-aid project and you do at least one of the following:
  - 2.1. Contribute to the cost of the training
  - 2.2. Provide the instruction to the apprentice or trainee
  - 2.3. Pay the apprentice's or trainee's wages during the off-site training period
3. If you comply with this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

Furnish the apprentice or trainee:

1. Copy of the program you will comply with in providing the training
2. Certification showing the type and length of training satisfactorily completed

Maintain records and submit reports documenting your performance under this section.