



REQUEST FOR QUALIFICATIONS

952-5375

COUNTY OF FRESNO - PURCHASING

ON-CALL LABOR COMPLIANCE SERVICES FOR VARIOUS PROJECTS UTILIZING PROPOSITION 84 FUNDS

SUBMITTALS: Three (3) paper copies of the Statement of Qualifications (SOQ), along with either a compact disc or flash drive containing an electronic copy of the SOQ in .pdf format, as well a copy of your firm's fee schedule in .pdf format must be before 2:00 p.m., Monday, September 21, 2015.

ADDRESSED TO: Nick Chin, Purchasing Analyst

MAILING ADDRESS: County of Fresno, Purchasing
4525 E. Hamilton Ave., 2nd Floor
Fresno, CA 93702

OFFICE ADDRESS: County of Fresno, Purchasing
4525 E. Hamilton Ave., 2nd Floor
Fresno, CA 93702

MARK ENVELOPE: "Request for Qualification – On-Call Labor Compliance Services"

COST LIMIT FOR AGREEMENT(S): \$100,000.00

STATEMENT OF QUALIFICATIONS (SOQ) PACKAGES RECEIVED AFTER THE TIME AND DATE STATED ABOVE WILL BE RETURNED UNOPENED TO THE CONSULTANT.

Inquiries and Updates: Requests for clarification regarding this Request for Qualification must be submitted in writing via email to Nick Chin, Purchasing Analyst, nchin@co.fresno.ca.us, and received by the County no later than **11:00 a.m., Wednesday, September 9, 2015**. Such information as is reasonably available and will facilitate preparation of responses hereto, requests for clarification and associated responses, and any addenda to this Request for Qualification will be posted at: <https://www2.co.fresno.ca.us/0440/Bids/BidsHome.aspx> and will not otherwise be distributed.

ISSUANCE DATE: Friday, August 28, 2015

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
	<u>PREFACE</u>	1
I.	<u>GENERAL INFORMATION</u>	1
II.	<u>ANTICIPATED SCHEDULE</u>	3
III.	<u>SOQ SUBMITTAL REQUIREMENTS</u>	3
IV.	<u>SELECTION PROCEDURE</u>	4
V.	<u>FEE DETERMINATION</u>	5

ATTACHMENTS

- A. Guidelines for Meeting California State Revolving Fund (CASRF) Programs (Clean Water and Drinking Water SRF) Disadvantaged Business Enterprise (DBE) Requirements
- B. Evaluation Sheet
- C. Conflict of Interest Code
- D. Disclosure of Lobbying Activities
- E. Self-Dealing Transaction Disclosure Form
- F. Debarment and Suspension Certification
- G. Consultant Performance Evaluation
- H. County Sample Agreement – Posted on Website and Incorporated Herein

PREFACE:

This Request for Qualifications (RFQ) is to provide specialized professional Labor Compliance Oversight for projects utilizing Proposition 84 funds in the County of Fresno. It is the intent of the County to engage several appraisal firms under a master agreement to provide the professional services described herein.

The County reserves the right, at its sole discretion, to terminate this RFQ process or negotiations with a selected consultant and either perform the work with its staff or begin a new RFQ process. Nothing herein, or in the process, shall be construed as having obligated the County to pay for any expenses incurred by respondents to this RFQ, or to the selected consultant(s) prior to Board of Supervisors' approval of a consultant services agreement.

I. General Information

A. INTRODUCTION, OVERVIEW & REQUIREMENTS

The Fresno County Department of Public Works and Planning (hereinafter referred to as "the Department") is seeking qualified Labor Compliance Oversight Consulting Firms hereinafter referred to as "the Consultant") to assist in labor compliance oversight for construction projects which utilize Proposition 84 funds (hereinafter referred to as "the Projects"). The Projects may include, but are not limited to, water and wastewater treatment facilities and appurtenances, as well as remodeling, demolition and alteration of existing facilities and new facility construction. It is the intent of the Department to contract with several firms on a Master Agreement (hereinafter referred to as "the Agreement") for a term of three years.

All firms with experience in labor compliance oversight, and with assisting in the administration of Department of Industrial Relations (DIR) approved Labor Compliance Programs (LCP), are invited to respond to this RFQ. Only firms with relevant experience with DIR approved LCPs will be considered.

B. SERVICES TO BE PROVIDED BY CONSULTANT

Consultant services may include, but is not necessarily limited to, attendance and participation at project kick-off meetings, interviewing employees of project contractors, ensuring appropriate on-site wage and safety postings, monitoring certified payroll records and comparing to applicable wage decisions, reporting discrepancies to County and DIR along with a recommendation to withhold a specific amount from the contractor payments pending remediation, and assist the County is applying and complying with any other labor compliance monitoring and enforcement activities required by DIR. Should any matter be litigated, the consultant shall provide and be compensated for necessary assistance in litigating such action including, but not limited to, pre-trial conferences, depositions, and court appearances.

C. SERVICES TO BE PROVIDED BY COUNTY

Services performed by the County shall include, but are not necessarily limited to, administering the process, providing oversight in all aspects of project labor compliance and contractor oversight, review of employee interview and payroll records, providing points of contact for any and all applicable projects, participating in all communications with DIR, and ensuring that penalties are enforced.

D. DISADVANTAGED BUSINESS ENTERPRISES

The provisions of 40 CFR, Part 33 require that a local agency receiving federal-aid funds complies with the Disadvantaged Business Enterprise (DBE) program, and that DBE firms, have an opportunity to participate in the projects. Fresno County has not established a DBE goal for this Agreement. DBE goals may be established on a project-by-project basis. Therefore, non-DBE proposers are encouraged to retain DBE sub-consultants. It is the Consultant's responsibility to be fully informed regarding the requirements of 40 CFR, Part 33 and the State of California State Water Resources Control Board's DBE program developed pursuant to the regulations (See Attachment A, Guidelines for Meeting the California State Revolving Fund Programs Disadvantaged Business Enterprise Requirements).

Consultants should be aware that the provisions of 40 CFR, Part 33 and the County's DBE Program may apply during the course of the consulting contract and would require reporting on the part of the consultant in the event a work activity requires the participation of a sub-consultant other than one originally listed by the consultant and which is approved by County. Additionally, projects funded by a federal grant or loan would require compliance with the particular disadvantaged business enterprise program established by the funding federal agency.

E. SAMPLE AGREEMENT

Prospective respondents to this RFQ are encouraged to review the Sample Agreement posted on the website (<http://www.co.fresno.ca.us/RFQ>) which is incorporated herein by this reference. If your firm is selected as a finalist, your firm will be added to the Agreement. The County's Liability Insurance and Indemnification Requirements included therein are not subject to negotiation.

F. ON-CALL SERVICES

If your firm is selected by the Committee and negotiations are successful, your firm may be asked to provide professional services on an on-call basis under the Agreement. Typically, the Department's representative will send the contracted consultants a letter requesting a proposal for a particular service. This letter will include a description of the professional services needed, a detailed project description, a location map and other relevant material the Department is able to provide. Based on the information provided by the Department, the consultant will be asked to provide a detailed fee estimate, estimated time schedule and possibly a refined scope of work to better address the

needs of the Department. Upon receiving and reviewing the proposals submitted by the consultants, the Department's representative will consider authorizing the professional service. Final authorization shall be provided in writing. Once written authorization is given, the consultant shall perform the required service within the agreed upon parameters.

G. AGREEMENT TERM

The term of the Agreement will be three years, unless prior to its expiration its term is extended in writing, for no more than two additional one-year terms, by mutual consent of the Director or his/her designee and the Consultant(s). The maximum total fee is \$100,000. The hourly and cost rates presented in the Agreement will be in effect for the entire duration of the Agreement, with an optional provision to adjust the rates once annually for inflation. The consultant may request new labor rates from the Department, subject to written approval of the Department's representative. The consultant shall initiate the rate adjustment process by submitting a proposed adjusted fee schedule to the Department for review and approval. The Department's Director or his/her designee expressly reserves the right to approve all labor rate increases. Specific project work may be extended or may be transferred to another consultant if work is not concluded by the end of the Agreement.

Where specific functions are required by law to be performed by the County or where specific functions are listed in the Agreement as to be performed by the County, County staff will perform the actual work function.

II. ANTICIPATED SCHEDULE

8/28/2015	RFQ Issued
9/9/2015, By 11 a.m.	Requests for Clarification Due
9/21/2015, By 2 p.m.	Deadline for submittal of SOQ
9/28/2015	Selection Committee recommends qualified firms
10/02/15	All submitting firms notified of results and agreement sent out for signatures.
10/09/15	Finalists submit signed agreements for Department routing and approval
10/14/2015	Fresno County Purchasing Services Division executes Purchasing Agreement(s)
By 10/16/2015	Letter of Approval and Agreements mailed to consultants

III. SOQ SUBMITTAL REQUIREMENTS

The submittal shall be in three parts.

- A. The submittal will enable the Selection Committee to appraise the general competence and qualifications of the appraisal firms. Please provide the listed information in the following sequence:
1. Firm name, address and phone number
 2. Type of organization (sole-proprietorship, partnership, or corporation)
 3. Firm principals who will be responsible for the project, and their educational background, credentials, training and experience
 4. Key personnel (including proposed sub-consultants, if applicable) who will work on the project with their educational background, credentials, training and experience on comparable projects
 5. List of current staff, including job classification
 6. Firm qualifications
 7. Firm organization chart
 8. List current projects or commitments for similar services in your office
 9. a). List in reverse chronological order for the last four years projects completed or in progress for which your firm served as contract administrator or otherwise provided labor compliance services; on each of the following (please clearly indicate):
 - 1) Public works projects awarded on or after January 1, 2012
 - 2) Public works projects awarded on or after June 30, 2014
 - 3) Public works projects financed in whole or in part by Proposition 84 funds
 - b). Indicate for each of these projects:
 - 1) Name of project
 - 2) Project location(s)
 - 3) Brief description
 - 4) Name of Agency
 - 5) Name of Agencies contact person and telephone number
 - 6) Your firm's specific involvement, including labor compliance enforcement activities
 - 7) Status of completion
 10. List the name and phone number of at least four relevant client references
- B. The second part will allow the County to examine the consultant's potential for using sub-consultants to provide the services outlined in this RFQ. Please list portions of work that could potentially be completed by a DBE sub-consultant under this Agreement. The Agreement will not have a DBE goal, however the Projects receiving federal-aid may have a goal and consultants are encouraged to assist the County in meeting any goal established. This document will be included as an Exhibit to the Agreement upon a successful contract negotiation. Please note, however, that the ability to identify and utilize DBE sub-consultants will not be used as a criterion for selecting on-call consultants.

- C. The third part will allow the Committee to determine if your firm's fee schedule is reasonable. Please submit a copy of your firm's fee/rate schedule in .pdf format.

DO NOT SUBMIT MORE INFORMATION THAN REQUESTED IN THIS RFQ

IV. SELECTION PROCEDURE

The selection procedure shall be in accordance with Fresno County Ordinance Code Chapter 4.10 and applicable provisions of the "Policy for Selection and Compensation of Architectural/Engineering Consultants" as revised by the Board of Supervisors on October 2, 2007.

A Selection Committee (hereinafter referred to as "the Committee") will be formed to evaluate the SOQs. The Committee will consist of representatives of the Department. The Committee will screen the SOQs to narrow consideration to those firms with qualifications and experience deemed especially qualified for this commission.

The Committee will address the following criteria in its evaluation of the SOQs and will use an Evaluation Sheet to systematically review the SOQs (See Attachment B), which will not become a part of the agreement.

- A. Educational background and training of the firms' key individuals
- B. Experience with an emphasis on labor compliance oversight for Public Works projects financed, in whole or in part, by Proposition 84 funds
- C. Quality of past performance for the County or similar agencies
- D. Qualifications of individual(s) within the firm's organization, directly responsible for the work
- E. Adequacy of staff to perform the work within the time allowed
- F. Ability to provide for all necessary assistance in litigating such action including, but not limited to, pretrial conferences, depositions, and court appearances.
- G. Demonstrated ability to work effectively with County staff, Department of Industrial Relations staff, other public agencies and related parties
- H. Demonstrated ability to apply applicable labor law during review of contractor compliance
- I. Knowledge of local conditions, where appropriate
- J. All other things being equal, local (within Fresno County) firms are preferred over non-local firms.
- K. All other things being equal, non-local firms who associate with a local firm for the purpose of the particular services required shall be preferred to non-local firms who do not so associate

The County reserves the right to conduct a background inquiry of each proposer which may include collection of appropriate criminal history information, contractual and business associations and practices, employment histories and reputation in the business community. By submitting a SOQ to the County, the proposer consents to such an inquiry and agrees to make available to the County such books and records the County deems necessary to conduct the inquiry.

V. **FEE DETERMINATION and TERM**

The term of the Agreement will be three years, unless prior to its expiration its term is extended in writing, for no more than two additional one-year terms, by mutual consent of the Director or his/her designee and the Consultant. The maximum total fee is \$100,000. Total fees paid to each firm will be dependent upon the work completed under the agreement and the rates set forth in the agreement. No guarantee is made that the total fee or any fee will be received by the firm.

California State Water Resources Control Board
Division of Financial Assistance (Division)
1001 I Street • Sacramento, California 95814 • (916) 341-5700 FAX (916) 341-5707
Mailing Address: P. O. Box 944212 • Sacramento, California • 94244-2120
Internet Address: <http://www.waterboards.ca.gov>

Guidelines for Meeting the California State Revolving Fund (CASRF) Programs
(Clean Water and Drinking Water SRF)
Disadvantaged Business Enterprise (DBE) Requirements
(Revised December 12, 2014)

The DBE Program is an outreach, education, and objectives program designed to increase the participation of DBEs in the CASRF Programs.

How to Achieve the Purpose of the Program

Recipients of CASRF financing that are subject to the DBE requirements (recipients) are required to seek, and are encouraged to use, DBEs for their procurement needs. Recipients should award a "fair share" of sub-agreements to DBEs. This applies to all sub-agreements for equipment, supplies, construction, and services.

The key functional components of the DBE Program are as follows.

- Fair Share Objectives
- DBE Certification
- Six Good Faith Efforts
- Contract Administration Requirements
- DBE Reporting

Disadvantaged Business Enterprise's are:

- entities owned and/or controlled by socially and economically disadvantaged individuals as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note) (10% statute), and Public Law 102-389 (42 U.S.C. 4370d) (8% statute), respectively;
- a Minority Business Enterprise (MBE) are entities that are at least 51% owned and/or controlled by a socially and economically disadvantaged individual as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note), and Public Law 102-389 (42 U.S.C. 4370d), respectively.
- a Women Business Enterprise (WBE) are entities that are at least 51% owned and/or controlled by women.
- a Small Business Enterprise (SBE);
- a Small Business in a Rural Area (SBRA);
- a Labor Surplus Area Firm (LSAF); or
- an Historically Underutilized Business (HUB) Zone Small Business Concern or a concern under a successor program.

Certifying DBE Firms:

Under the DBE Program, entities can no longer self-certify and contractors and sub-contractors must be certified at bid opening. Contractors and sub-contractors must provide to the CASRF recipient proof of DBE certification. Certifications will be accepted from the following:

- The US Environmental Protection Agency (USEPA)
- The Small Business Administration(SBA);
- The Department of Transportation's State implemented DBE Certification Program (with U.S. citizenship);
- Tribal, State and Local governments;
- Independent private organization certifications.

If an entity holds one of these certifications, it is considered acceptable for establishing status under the DBE Program.

Six Good Faith Efforts (GFE)

Recipients are required to complete and ensure that the prime contractor complies with the GFE below to ensure that DBEs have the opportunity to compete for financial assistance dollars.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practical through outreach and recruitment activities. For Tribal, State and Local Government Recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs. Posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid opening date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs.
4. Encourage contracting with a group of DBEs when a contract is too large for one firm to handle individually.
5. Use the services and assistance of the SBA and Minority Business Development Agency (MBDA) of the US Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the above steps.

The forms listed in the table below and attached to these guidelines; must be completed and submitted with the GFE:

FORM NUMBER	FORM NAME	REQUIREMENT	PROVIDED BY	COMPLETED BY	SUBMITTED TO
EPA 6100-2	DBE Sub-Contractor Participation Form	As Needed to Report Issues	Recipient	Sub-Contractor	EPA DBE Coordinator
EPA 6100-3	DBE Sub-Contractor Performance Form	Include with Bid or Proposal Package	Prime Contractor	Sub-Contractor	SWRCB by Recipient
EPA 6100-4	DBE Sub-Contractor Utilization Form	Include with Bid or Proposal Package	Recipient	Prime Contractor	SWRCB by Recipient

The completed forms must be submitted with each Bid or Proposal. The recipient shall review the bidder's documents closely to determine that the GFE was performed **prior** to bid or proposal opening date. Failure to complete the GFE and to substantiate completion of the GFE before the bid opening date could jeopardize CASRF financing for the project. The following situations and circumstances require action as indicated:

1. If the apparent successful low bidder was rejected, a complete explanation must be provided;
2. Failure of the apparent low bidder to **perform** the GFE **prior** to bid opening constitutes a non-responsive bid. The construction contract may then be awarded to the next low, responsive, and responsible bidder that meets the requirements or the Recipient may re-advertise the project.
3. If there is a bid dispute, all disputes shall be settled **prior** to submission of the Final Budget Approval Form.

Administration Requirements

- A recipient must require entities receiving funds to create and maintain a Bidders List if the recipient of the financing agreement is subject to, or chooses to follow, competitive bidding requirements;
- The Bidders list must include all firms that bid or quote on prime contracts, or bid or quote on subcontracts, including both DBEs and non-DBEs.

- Information retained on the Bidder's List must include the following:
 1. Entity's name with point of contact;
 2. Entity's mailing address and telephone number;
 3. The project description on which the entity bid or quoted and when;
 4. Amount of bid/quote; and
 5. Entity's status as a DBE or non-DBE.
- The Bidders List must be kept until the recipient is no longer receiving funding under the agreement.
- The recipient shall include Bidders List as part of the Final Budget Approval Form.
- A recipient must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the Recipient.
- A recipient must be notified in writing by its prime contractor prior to any termination of a DBE subcontractor by the prime contractor.
- If a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the six GFEs if soliciting a replacement subcontractor.
- A recipient must require its prime contractor to employ the six GFEs even if the prime contractor has achieved its fair share objectives.

Reporting Requirements

For the duration of the construction contract(s), the recipient is required to submit to the State Water Resources Control Board DBE reports annually by October 10 of each fiscal year on the attached Utilization Report form (UR-334). Failure to provide this information as stipulated in the financial agreement language may be cause for withholding disbursements.

CONTACT FOR MORE INFORMATION

SWRCB – CASRF Barbara August (916) 341-6952 barbara.august@waterboards.ca.gov
 US-EPA Region 9 – Joe Ochab (415) 972-3761 ochab.joe@epa.gov.



United States
Environmental Protection
Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Participation Form**

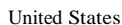
An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE subcontractor² the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services ,Equipment or Supplies	Amount Received by Prime Contractor

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Environmental Protection
Agency

Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Participation Form

Please use the space below to report any concerns regarding the above EPA-funded project:

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins or other markings on the paper.

Subcontractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

**Disadvantaged Business Enterprise (DBE) Program
 DBE Subcontractor Performance Form**

This form is intended to capture the DBE1 subcontractor's2 description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor

DBE Certified By: <input type="radio"/> DOT <input checked="" type="radio"/> SBA <input type="radio"/> Other: _____	Meets/ exceeds EPA certification standards? <input type="radio"/> YES <input type="radio"/> No <input type="radio"/> Unknown
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¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



United States
Environmental Protection
Agency

OMB Control No: 2090-0030
Approved: S/13/2013
Approval Expires: 8/31/2015

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	Date

Subcontractor Signature	Print Name
Title	Date

The public reporting and record keeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.



Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE1 subcontractors2 and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			

I have identified potential DBE certified subcontractors				Q. YES	E2. NO
If yes, please complete the table below. If no, please explain:					
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?		

Continue on back if needed

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	Date

The public reporting and record keeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

**STATE WATER RESOURCES CONTROL BOARD – DIVISION OF FINANCIAL ASSISTANCE
DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION
CALIFORNIA STATE REVOLVING FUNDS (CASRF)
FORM UR-334**

1. Grant/Finance Agreement Number:		2. Annual Reporting Period 10/1/ through 09/30/		3. Purchase Period of Financing Agreement:	
4. Total Payments Paid to Prime Contractor or Sub-Contractors During Current Reporting Period: \$					
5. <u>Recipients Name and Address:</u>				6. <u>Recipient's Contact Person and Phone Number:</u>	
7. List All DBE Payments Paid by Recipient or Prime Contractor During Current Reporting Period:					
Payment or Purchase Paid by Recipient or Prime Contractor	Amount Paid to Any DBE Contractor or Sub-Contractor For Service Provided to Recipient		Date of Payment (MM/DD/YY)	Procurement Type Code** (see below)	Name and Address of DBE Contractor of Sub-Contractor or Vendor
	MBE	WBE			
8. Initial here if no DBE contractors or sub-contractors paid during current reporting period:					
9. Initial here if all procurements for this contract are completed:					
10. Comments:					
11. Signature and Title of Recipient's Authorized Representative				12. Date	

Return to:
Barbara August
Division of Financial Assistance
SWRCB
PO Box 944212
Sacramento, CA 94244-2120

Barbara.August@waterboards.ca.gov
Phone: (916) 341-6952
Fax: (916) 327-7469

Procurement Type:

1. Construction
2. Supplies
3. Services (includes business services; professional services; repair services and personnel services)
4. Equipment

**STATE WATER RESOURCES CONTROL BOARD - DIVISION OF FINANCIAL ASSISTANCE
DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION
CALIFORNIA STATE REVOLVING FUNDS
INSTRUCTIONS FOR COMPLETING FORM UR-334**

- Box 1** Grant or Financing Agreement Number.
- Box 2** Annual reporting period.
- Box 3** Enter the dates between which you made procurements under this financing agreement or grant.
- Box 4** Enter the total amount of payments paid to the contractor or sub-contractors during this reporting period.
- Box 5** Enter Recipient's Name and Address.
- Box 6** Enter Recipient's Contact Name and Phone Number.
- Box 7** Enter details for the **DBE purchases only** and be sure to limit them to the current period. 1) Use either an "R" or a "C" to represent "Recipient" or "Contractor." 2) Enter a dollar total for DBE and total the two columns at the bottom of the section. 3) Provide the payment date. 4) Enter a product type choice from those at the bottom of the page. 5) List the vendor name and address in the right-hand column
- Box 8** Initial here if no DBE contractors or sub-contractors were paid during this reporting period.
- Box 9** Initial this box only if all purchases under this financing agreement or grant have been completed during this reporting period or a previous period. If you initial this box, we will no longer send you a survey.
- Box 10** This box is for explanatory information or questions.
- Box 11** Provide an authorized representative signature.
- Box 12** Enter the date form completed.

SUGGESTED CONSULTANT EVALUATION SHEET

<u>CONSULTANT/FIRM NAME:</u>		
Criteria	Max Points	Rating
Understanding of the work to be done	25	
Experience with similar kinds of work	25	
Quality of staff for work to be done	25	
Familiarity with state and federal procedures	15	
Financial responsibility	10	
Total	100	

Evaluator

Print Name: _____

Signature: _____

Date: _____

Contract Office

Initials: _____

Date: _____

28

File #15123
February 23, 1999
Resolution #99-086

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

In the matter of

Adoption of Standard Conflict of Interest
Code for All County Departments.

Resolution #99-086

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

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

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

Whereas, the Board of Supervisors is the code reviewing body for all County departments except courts; and

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

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

28

1 constitute the conflict of interest codes of each County department except courts.

2 Conflict of interest forms shall be filed as follows:

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

10 2. As required by Government Code section 87500, subdivision (j), all other
11 department heads shall file one original of their statements with their departments. The filing
12 officer of each department shall make and retain a copy of the department head's statement
13 and shall forward the original to the Clerk to the Board of Supervisors.

14 3. All other designated employees shall file one original of their statements with
15 their departments.

16 All statements shall be public records and shall be made available for public
17 inspection and reproduction. (Gov. Code, § 81008.)

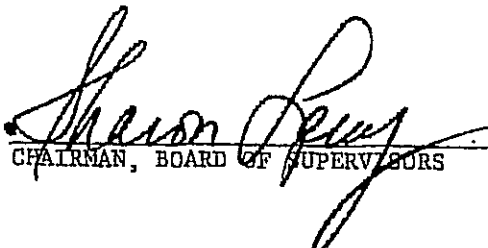
18 Adopted at a regular meeting of the Board of Supervisors, held on the 23rd day
19 of February, 19 99, by the following vote, to wit:

20 Ayes: Supervisors Koligian, Case, Arambula, Oken, Levy

21 Noes: None

22 Absent: None

23
24 ATTEST:
25 SHARI GREENWOOD, CLERK
26 BOARD OF SUPERVISORS


CHAIRMAN, BOARD OF SUPERVISORS

27 By 
28 Deputy

File #15123

Agenda #28

Resolution #99-086

EXHIBIT "A"

PUBLIC WORKS AND PLANNING

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

Attachment C

<u>Classification</u>	<u>Category</u>
Senior Staff Analyst	1
Senior Systems and Procedures Analyst	2
Staff Analyst I / II / III	1
Supervising Accountant	2, 3
Supervising Building Inspector	1
Supervising Engineer	1
Supervising Water/Wastewater Specialist	2, 3
Systems and Procedures Analyst I / II / III	2
Systems and Procedures Manager	2
Traffic Maintenance Supervisor	2

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

EXHIBIT "B"

PUBLIC WORKS AND PLANNING

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

DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
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4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known
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6. Federal Department/Agency: 8. Federal Action Number, if known: 10. Name and Address of Lobby Entity (If individual, last name, first name, MI) (attach Continuation Sheet(s) if necessary)	7. Federal Program Name/Description: CFDA Number, if applicable _____ 9. Award Amount, if known: 11. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI)
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12. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____
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13. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____	15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) if necessary)
---	---

16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/>	17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
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Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	Authorized for Local Reproduction Standard Form - LLL
---	--

INSTRUCTIONS FOR COMPLETING DISCLOSURE OF LOBBYING ACTIVITIES

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

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

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04

SELF-DEALING TRANSACTION DISCLOSURE FORM

(1) Company Board Member Information:

Name: _____ Date: _____

Job Title: _____

(2) Company/Agency Name and Address:

(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)

(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a)

(5) Authorized Signature

Signature: _____ Date: _____

SELF-DEALING TRANSACTION DISCLOSURE FORM INSTRUCTIONS

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing the disclosure form.

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Codes.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

DEBARMENT AND SUSPENSION CERTIFICATION

TITLE 40, CODE OF FEDERAL REGULATIONS, PART 35

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, and 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 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 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

CONSULTANT PERFORMANCE EVALUATION

1. PROJECT DATA				2. CONSULTANT DATA										
1a.	Project (include title, location, and Activity/CIP No.)			2a.	Consultant Name and Address									
1b.	Brief Description of Project (design, study, etc.)			2b.	Consultant's Manager									
1c.	Budget Cost for Project: \$ _____			2c.	Phone: (____) _____									
3. AGENCY DEPARTMENT/SECTION RESPONSIBLE														
3a.	Department (include section and division)			3b.	Agency Project Manager (name & phone)									
4. CONTRACT DATA (Engineering Services)														
4a.	Contract No.: _____		Termination date: _____		Base Fee: \$ _____									
	Agreement date: _____		Date terminated: _____		Contingency: \$ _____									
4b.	Amendments \$ _____ / # _____ (Total Value) (Initiated by Agency)		\$ _____ / # _____ (Total Value) (Initiated by Agency)											
4c.	Changes Orders \$ _____ / # _____ (Total Value) (Initiated by Agency)		\$ _____ / # _____ (Total Value) (Initiated by Agency)											
4d.	Total Fee per Agreement (4a. + 4b. + 4c.) \$ _____			Total Fee Paid \$ _____										
(Do not include Contingency Listed in 4a.)														
4e.	Type of Services (Design, study, etc.)	4f. Historical Record of Key Submittal Dates (enter date or n/a if not applicable)												
			Preliminary		30%		60%		90%		100%		Final	
		Per Agreement												
		Delivery Date												
		Acceptance Date												
4g.	Notice To Proceed _____ (date)			4j. Reasons for Change Orders: (Indicate total for each reason)										
				Errors/Omissions		\$ _____	% of Base Fee	_____	%					
				Unforeseen Conditions		\$ _____	% of Base Fee	_____	%					
4h.	Number of Days _____ (number)			Changed Scope		\$ _____	% of Base Fee	_____	%					
				Changed Quantities		\$ _____	% of Base Fee	_____	%					
4i.	Actual Number of Days _____ (number)			Program Task Options		\$ _____	% of Base Fee	_____	%					
5. OVERALL RATING (Complete Section II on reverse, include comments as appropriate.)														
			Outstanding		Above Average		Average		Below Average		Poor	N/A		
5a.	Plans/Specifications accuracy													
5b.	Consistency with budget													
5c.	Responsiveness to Agency Staff													
5d.	Overall Rating													
6. AUTHORIZING SIGNATURES														
6a. Agency Design Team Leader _____			Date: _____											
6b. Agency Project Manager _____			Date: _____											
6c. Agency Public Works Manager _____			Date: _____											
6d. Consultant Representative _____ Date: _____														

SEE REVERSE SIDE

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1 is designated as the CONTRACT ADMINISTRATOR for this AGREEMENT on behalf of
2 the COUNTY, and shall remain so unless the CONSULTANT is otherwise notified in writing
3 by the COUNTY's Director of Public Works and Planning or his/her designee (hereinafter
4 referred to as "the DIRECTOR"); and

5 WHEREAS, the individual listed for each firm in Appendix A is designated as the
6 PROJECT MANAGER for the CONSULTANT for this AGREEMENT, and shall remain so
7 unless the CONSULTANT requests and the DIRECTOR approves, in writing, a change of
8 the CONSULTANT'S PROJECT MANAGER, which approval will not be unreasonably
9 withheld; and

10 WHEREAS, said AGREEMENT is subject to 49 Code of Federal Regulations
11 (hereinafter referred to as "49 CFR"), Part 26 Participation by Disadvantaged Business
12 Enterprises in Department of Transportation Financial Assistance Programs,
13 Disadvantaged Business Enterprise programs established by other federal agencies and/or
14 COUNTY'S Disadvantaged Business Enterprise Program (all of which hereinafter referred
15 to as "DBE PROGRAM(S)"),

16 NOW, THEREFORE, in consideration of the promises and covenants set forth
17 herein, the above named parties agree as follows:

18 I. CONTRACTING OF CONSULTANT

19 A. The COUNTY hereby contracts with the CONSULTANT as an independent
20 contractor to provide appraisal services for partial and full acquisitions required for the
21 PROJECT(S). Said services are described in Article II and enumerated in Article III herein.

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

26 C. The CONSULTANT'S PROJECT team staff, including subconsultants, shall
27 be as listed in Appendix A, attached hereto and incorporated herein. Any substitutions of
28 personnel shall be approved by the CONTRACT ADMINISTRATOR, which approval shall

1 not be unreasonably withheld. The CONSULTANT shall notify the CONTRACT
2 ADMINISTRATOR of the names and classifications of employees assigned to each
3 specific PROJECT, and shall not reassign such employees to other the PROJECTS of the
4 CONSULTANT without notification to and prior approval by the CONTRACT
5 ADMINISTRATOR.

6 D. The CONSULTANT may retain, as subconsultants, specialists in such
7 disciplines including, but not limited to, title reports, appraisals, acquisition, and relocation
8 assistance as the CONSULTANT requires to assist in completing the work. All
9 subconsultants used by the CONSULTANT shall be approved in writing by the
10 CONTRACT ADMINISTRATOR before they are retained by the CONSULTANT; which
11 approval shall not be unreasonably withheld. The subconsultants listed in Appendix B,
12 attached hereto and incorporated herein, shall be considered as approved by the
13 CONTRACT ADMINISTRATOR. Should the CONSULTANT retain any subconsultants, the
14 maximum amount of compensation to be paid to the CONSULTANT under Article VI below
15 shall not be increased, and any additional compensation to be paid to the CONSULTANT
16 for such subconsultants' work shall be limited to a maximum of ten (10%) of the total costs
17 incurred by the CONSULTANT as a result of the subconsultant's involvement in any
18 PROJECT. Additional fees other than the 10% markup on subconsultant's charges shall
19 not be reimbursed.

20 E. The CONSULTANT and affiliated subconsultants shall not submit bids, or
21 sub-bids, for the contract construction phase of the PROJECT assigned to the
22 CONSULTANT. The CONSULTANT and its subconsultants, and all other service
23 providers, shall not provide any PROJECT-related services for, or receive any PROJECT-
24 related compensation from any construction contractor, subcontractor or service provider
25 awarded a construction contract (hereinafter referred to as "CONTRACTOR") for all or any
26 portion of the PROJECT(S) for which the CONSULTANT provides services hereunder.
27 The CONSULTANT and its subconsultants, and all other service providers, may provide
28 services for, and receive compensation from a CONTRACTOR who has been awarded a

1 construction contract for all or any portion of the PROJECT(S) provided that any such
2 services which are rendered, and any compensation which is received therefor, relates to
3 work outside the scope of AGREEMENT and does not pose a conflict of interest.

4 F. Any subcontract in excess of \$25,000 entered into as a result of this
5 AGREEMENT, shall contain all the provisions stipulated in this AGREEMENT to be
6 applicable to subcontractors.

7 G. The CONSULTANT is responsible for being fully informed regarding the
8 requirements of 49 CFR, Part 26 and the California Department of Transportation's
9 (CALTRANS) Disadvantaged Business Enterprise program developed pursuant to the
10 regulations, as detailed in Appendix C, attached hereto and incorporated herein.

11 II. DESCRIPTION OF THE WORK COVERED BY AGREEMENT

12 A. The work to be performed by the CONSULTANT under the AGREEMENT
13 includes professional services under Article III for various PROJECT(S), including but not
14 limited to, real property appraisal services for partial and full acquisitions required for the
15 PROJECT(S).

16 B. The CONSULTANT agrees to provide the professional services necessary for
17 each PROJECT when expressly authorized in writing by the CONTRACT
18 ADMINISTRATOR. Such work by the CONSULTANT shall not begin until the
19 CONSULTANT has received a written Notice to Proceed from the CONTRACT
20 ADMINISTRATOR authorizing the necessary service, agreed upon fee, and scope of work.

21 III. CONSULTANT'S SERVICES

22 A. The CONSULTANT shall submit a price quote in response to task orders
23 issued by the CONTRACT ADMINISTRATOR on a project-by-project basis. For routine
24 PROJECT(S), all CONSULTANT(S) listed on Appendix "A" will be issued a task order and
25 will have five (5) working days to submit a price quote for the requested work. Those
26 CONSULTANT(S) that submit a price quote shall include a quote for the preparation of
27 each narrative appraisal report, and a per hour quote for pretrial conferences, depositions,
28 court appearances, updating appraisals and all other necessary activities required for an

1 Eminent Domain action. The CONSULTANT agrees the CONSULTANT(S) principal
2 personnel are licensed as Certified General Appraisers with the California Office of Real
3 Estate Appraisers and hold an MAI Designation from the Appraisal Institute and the
4 professionals or other individuals performing work on any PROJECT(S) shall be
5 adequately trained to perform the work as required by law or by accepted standards of the
6 applicable profession.

7 B. Depending on the exact nature of the PROJECT(S), the CONSULTANT(S)
8 may be asked by the CONTRACT ADMINISTRATOR to describe special experience that
9 they may possess and/or their ability to meet the PROJECT(S) deadlines prior to issuing a
10 task order. Under such circumstances, a task order will only be issued by the CONTRACT
11 ADMINISTRATOR to the CONSULTANT(S) most qualified to provide the appraisal
12 services required for the PROJECT(S). In the event two or more CONSULTANT(S) are
13 equally qualified, the CONSULTANT with the lowest price quote will be selected.

14 C. The CONSULTANT agrees to provide the professional services that are
15 necessary to complete the following tasks when expressly authorized in writing by the
16 CONTRACT ADMINISTRATOR:

17 1. Narrative Appraisal Report:

18 Upon receiving written authorization to proceed from the CONTRACT
19 ADMINISTRATOR, the CONSULTANT will conduct the appraisal(s) and furnish a complete
20 narrative appraisal report, in triplicate, with an electronic copy in Adobe Acrobat 9 .PDF
21 format on compact disk or on a flash drive for the agreed upon parcel(s) within the time
22 frame stated in the authorization to proceed. The CONSULTANT shall provide the
23 CONTRACT ADMINISTRATOR with a narrative type appraisal for the parcel(s), containing
24 information included in Appendix B, "Appraisal Requirements for Fresno County
25 Appraisals," attached hereto and made a part hereof.

26 If requested by the CONTRACT ADMINISTRATOR, the CONSULTANT shall
27 provide minor updates and revisions to the reports provided pursuant to the AGREEMENT
28 at no cost to the COUNTY. Extensive updates and revisions shall be provided at the

request of COUNTY and shall be compensated for.

Pursuant to Government Code, Section 7267.1(b), the property owner or his/her designated representative must be offered the opportunity to accompany the appraiser during his/her inspection of the property. The CONSULTANT shall comply with this requirement and include a statement in the appraisal that on a certain date the owner or his/her designated representative was given this opportunity and he/she either accepted or declined. The CONSULTANT shall indicate the date on which the property was inspected and if the owner or his/her representative was present.

The CONSULTANT shall review the construction drawings to determine how the proposed grade, drainage, access, etc., affects the remaining property. The CONSULTANT shall initiate the request by contacting the CONTRACT ADMINISTRATOR in writing.

The CONSULTANT warrants that if he/she has any interest, present or contemplated, in any property affected by the AGREEMENT, the CONSULTANT will notify the CONTRACT ADMINISTRATOR and will withdraw his/her bid for that PROJECT(S).

The CONSULTANT agrees that his/her report and conclusions are for the confidential information of COUNTY in connection with any property acquisition or condemnation action(s) involving the properties which are the subject of the appraisal report and that he/she will not disclose his/her conclusions in whole or in part to any person whatsoever other than as provided in the AGREEMENT. The CONSULTANT further agrees that his/her report, conclusions and other work, whether completed or partially completed, are the sole property of the COUNTY.

Written consent is hereby given to the COUNTY, at its sole option, to disseminate to the public through the news media, or any other public means of communication, the contents or valuation conclusion of the appraisal report prepared hereunder.

The appraisals will be used to make initial offers to property owners and others having an interest in the real estate as required by the Uniform Relocation Assistance and Real Property Acquisition Act.

1 2. Trial Preparation

2 Upon notice from the COUNTY that an Eminent Domain action has been filed on
3 property appraised, the CONSULTANT shall provide and be compensated for all
4 necessary assistance in litigating such action including, but not limited to, pretrial
5 conferences, depositions, court appearances and updating of appraisals.

6 IV. OBLIGATIONS OF COUNTY

7 COUNTY will:

8 A. Issue task orders on a project-by-project basis. Task orders will at a minimum
9 include scope of work, location, and schedule for the PROJECT.

10 B. Compensate the CONSULTANT as provided in the AGREEMENT.

11 C. Provide the CONTRACT ADMINISTRATOR as a representative of the
12 COUNTY and who, as such, will work with the CONSULTANT in carrying out the provisions
13 of the AGREEMENT.

14 D. Provide all surveying and staking.

15 E. Provide design of projects and prepare legal descriptions.

16 F. Prepare right-of-way maps.

17 G. Examine documents submitted and render timely decisions pertaining
18 thereto.

19 H. Provide a project manager who will provide information regarding engineering
20 design philosophy, the schedule, and the purpose of a Project.

21 I. Examine documents submitted to the COUNTY by the CONSULTANT and
22 timely render decisions pertaining thereto.

23 J. Provide mailing lists and labels for notification of property owners upon the
24 CONSULTANT'S request.

25 K. Give reasonably prompt consideration to all matters submitted by the
26 CONSULTANT for approval to the end that there will be no substantial delays in
27 CONSULTANT'S program of work. An approval, authorization or request to
28 CONSULTANT given by COUNTY will be binding upon COUNTY under the terms of

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

3 V. PERFORMANCE PERIOD

4 A. The term of the Agreement will be three years, unless prior to its expiration its
5 term is extended in writing, for no more than two additional one-year terms, by mutual
6 consent of the Director or his/her designee and the CONSULTANT.

7 B. The CONSULTANT is advised and hereby acknowledges its understanding
8 that any recommendation for award is not binding on the COUNTY until the AGREEMENT
9 is fully executed following its approval by the COUNTY's Board of Supervisors.

10 VI. ALLOWABLE COSTS AND PAYMENTS

11 A. Total Fee:

12 1. Notwithstanding any other provisions in this AGREEMENT, the Maximum
13 Total Fee for the services required under the AGREEMENT, shall not exceed the total sum
14 of Five Hundred Thousand and No/100 Dollars (\$500,000.00) over the entire term of the
15 AGREEMENT. Compensation for the services rendered shall be computed at the hourly
16 and cost rates shown in Appendix D, subject to any adjustments that may be approved in
17 accordance with Article VI, Section A, Paragraph 3.

18 2. The hourly and cost rates listed herein for services rendered by the
19 CONSULTANT and subconsultants shall remain in effect for the entire duration of the
20 AGREEMENT unless adjusted in accordance with the provisions of Article VI, Section A,
21 Paragraphs 3, 5, or 6.

22 3. The hourly rates paid for services performed by the CONSULTANT and by
23 subconsultants of the CONSULTANT and the rates for expenses incidental to the
24 CONSULTANT'S and subconsultant's performance of services may be adjusted no more
25 than once annually for inflation, in accordance with the following provisions: the
26 CONSULTANT may request new labor rates and new rates for expenses incidental to the
27 CONSULTANT'S and subconsultant's performance of services subject to written approval
28 of the CONTRACT ADMINISTRATOR in accordance with the provisions of this Article VI,

1 Section A, Paragraph 3. The CONSULTANT shall initiate the rate adjustment process by
2 submitting to the CONTRACT ADMINISTRATOR a proposed adjusted fee schedule. The
3 proposed adjusted fee schedule shall include proposed hourly rates for all categories of the
4 CONSULTANT and subconsultants wage classifications and proposed rates for incidental
5 expenses listed in Appendix D. The proposed adjusted fee schedule shall not take effect
6 unless approved in writing by the CONTRACT ADMINISTRATOR. The CONSULTANT
7 hereby acknowledges its understanding that approval by the CONTRACT
8 ADMINISTRATOR of any upward adjustment in the hourly and cost rates shall not provide
9 a basis for any increase in the total fee of \$500,000.00, as set forth in Article VI, Section A,
10 Paragraph 1.

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

19 5. In the event that, in accordance with Article I, Section D, the CONTRACT
20 ADMINISTRATOR approves the CONSULTANT to retain additional subconsultants not
21 listed in Appendix B, hourly rates paid for services performed by such additional
22 subconsultants of the CONSULTANT and the rates for expenses incidental to
23 subconsultants performance of services may be adjusted no more than once annually for
24 inflation, in accordance with Article VI, Section A, Paragraph 3. The first annual
25 adjustment of hourly and incidental expense rates for such additional subconsultants shall
26 not be approved prior to one year after the CONTRACT ADMINISTRATOR approval of the
27 retention of such additional subconsultant(s) by the CONSULTANT.

28 6. Notwithstanding any other provisions in this AGREEMENT, the CONTRACT

ADMINISTRATOR may, at any time, authorize in writing the revision of the CONSULTANT'S or subconsultant's charge rates for incidental expenses to include additional categories of such expenses if, in the opinion of the CONTRACT ADMINISTRATOR, such revision is necessary to facilitate the CONSULTANT'S performance of the PROJECTS.

B. Payments:

1. Progress payments will be made by the COUNTY upon receipt of the CONSULTANT'S monthly invoices and approval by the CONTRACT ADMINISTRATOR thereof based on the CONTRACT ADMINISTRATOR'S evaluation of the completion of the respective components of the assigned PROJECT. Invoices shall clearly identify the Phase and Task of the work, and shall be submitted with the documentation identified in Article VI, Section B, Paragraph 5. Invoices shall be forwarded electronically to:

PWPBusinessOffice@co.fresno.ca.us.

2. Upon receipt of a proper invoice, the CONTRACT ADMINISTRATOR will take a maximum of ten (10) working days to review, approve, and submit it to the COUNTY Auditor Controller/Treasurer Tax Collector. Unsatisfactory or inaccurate invoices will be returned to the CONSULTANT for correction and resubmittal. Payment, less retention, if applicable, will be issued to the CONSULTANT within forty (40) calendar days of the date the Auditor Controller/Treasurer Tax Collector receives the approved invoice.

3. The COUNTY is entitled to withhold a ten percent (10%) retention from the CONSULTANT'S earned compensation in accordance with the provisions of Article VII of the AGREEMENT.

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

5. Concurrently with the invoices, the CONSULTANT shall certify (through copies of issued checks, receipts, or other COUNTY pre-approved documentation) that complete payment, less a ten percent (10%) retention, except as otherwise specified in Article VII, has been made to all subconsultants as provided herein for all previous invoices

1 paid by the COUNTY. However, the parties do not intend that the foregoing create in any
2 subconsultants or sub-contractor a third party beneficiary status or any third party
3 beneficiary rights, and expressly disclaim any such status or rights.

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

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

13 VII. RETENTION FROM EARNED COMPENSATION

14 In addition to any amounts withheld under Article III, the CONSULTANT agrees that
15 the COUNTY, at the discretion of the CONTRACT ADMINISTRATOR, may withhold a ten
16 percent (10%) retention from the earned compensation of the CONSULTANT. If the
17 CONTRACT ADMINISTRATOR determines that retention will be withheld for a PROJECT,
18 the CONTRACT ADMINISTRATOR will so state in writing prior to commencement of the
19 PROJECT by the CONSULTANT and will identify the PROJECT-specific prerequisites
20 (such as successful completion of a PROJECT phase, as an example) for the release of
21 retentions.

22 VIII. TERMINATION

23 A. This AGREEMENT may be terminated without cause at any time by the
24 COUNTY upon thirty (30) calendar days' written notice. If the COUNTY terminates this
25 AGREEMENT, the CONSULTANT shall be compensated for services satisfactorily
26 completed to the date of termination based upon the compensation rates and subject to
27 the maximum amounts payable agreed to in Article VI, together with such additional
28 services satisfactorily performed after termination which are expressly authorized by the

COUNTY to conclude the work performed to date of termination.

B. If the CONSULTANT purports to terminate the AGREEMENT, or otherwise refuses to perform pursuant to the AGREEMENT, for reasons other than material breach by the COUNTY, the CONSULTANT shall reimburse the COUNTY, up to a maximum of \$10,000 for the actual expense of issuing a Request For Proposal (RFP), engaging a new consultant, and the new consultant's cost in becoming familiar with the previous CONSULTANT'S work. The COUNTY'S entitlement to such reimbursement shall in no way be construed as a limitation on other damages that may be recoverable by the COUNTY as a result of the CONSULTANT'S termination, in breach of its obligations hereunder.

C. The COUNTY may immediately suspend or terminate the AGREEMENT in whole or in part, where in the determination of the COUNTY there is:

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

D. In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this AGREEMENT or any default which may then exist on the part of the CONSULTANT. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The DIRECTOR shall have the right to demand of the CONSULTANT the repayment to the COUNTY of any funds disbursed to the CONSULTANT under this AGREEMENT, which, in the judgment of the DIRECTOR and as determined in accordance with the procedures of Article XVI, were not expended in accordance with the terms of this AGREEMENT. The CONSULTANT shall promptly refund any such funds upon demand.

E. The terms of the AGREEMENT, and the services to be provided thereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or the

1 AGREEMENT terminated at any time by giving the CONSULTANT thirty (30) days advance
2 written notice. In the event of termination on the basis of this Paragraph, the
3 CONSULTANT'S entitlement to payment, in accordance with the payment provisions set
4 forth hereinabove, shall apply only to work performed by the CONSULTANT prior to receipt
5 of written notification of such non-allocation of sufficient funding.

6 IX. FUNDING REQUIREMENTS

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

11 B. This AGREEMENT is subject to any additional restrictions, limitations,
12 conditions, or any legislation enacted by the Congress, State Legislature or County Board
13 of Supervisors that may affect the provisions, terms, or funding of the AGREEMENT in any
14 manner.

15 C. It is mutually agreed that if sufficient funds are not appropriated, this
16 AGREEMENT may be amended to reflect any reduction in funds.

17 D. The COUNTY has the option to void the AGREEMENT under the 30-day
18 cancellation clause, or to amend the AGREEMENT by mutually acceptable modification of
19 its provisions to reflect any reduction of funds.

20 X. CHANGE IN TERMS

21 A. The AGREEMENT may be amended or modified only by mutual written
22 agreement of both parties. Except as provided in Article V, Section A, any such written
23 amendment to this AGREEMENT may be approved on the COUNTY's behalf only by its
24 Board of Supervisors.

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

28 XI. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

1 A. The CONSULTANT must give consideration to Disadvantaged Business
2 Enterprise (hereinafter referred to as "DBE") firms as specified in 23 Code of Federal
3 Regulations (hereinafter referred to as "CFR") Section 172.5(b), and in 49 CFR, Part 26.
4 The CONSULTANT must meet the DBE goal established for PROJECTS by using DBEs
5 as subconsultants or document a good faith effort to have met the goal. If a DBE
6 subconsultant is unable to perform, the CONSULTANT must make a good faith effort to
7 replace him/her with another DBE subconsultant if the goal is not otherwise met.

8 B. The CONSULTANT is responsible for being fully informed regarding the
9 requirements of Title 49 CFR, Part 26 and CALTRANS' Disadvantaged Business
10 Enterprise program developed pursuant to the regulations, as detailed in Appendix C,
11 Notice to Proposers DBE Information, attached hereto and incorporated herein.

12 C. A DBE subconsultant may be terminated only with written approval by the
13 CONTRACT ADMINISTRATOR and only for reasons specified in 49 CFR Section 26.53(f).
14 Prior to requesting the CONTRACT ADMINISTRATOR consent for the proposed
15 termination, the CONSULTANT must meet the procedural requirements specified in 49
16 CFR Section 26.53(f).

17 XII. COST PRINCIPLES

18 A. The CONSULTANT agrees that the Contract Cost Principles and Procedures,
19 Title 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq.,
20 shall be used to determine the allowability of cost for individual items. The CONSULTANT
21 shall sign the Certification of Contract Costs and Financial Management System, which
22 shall be kept on file with the Department and distributed to Caltrans Audits and
23 Investigations.

24 B. The CONSULTANT also agrees to comply with federal procedures in
25 accordance with Title 49 CFR, Part 18, Uniform Administrative Requirements for Grants
26 and Cooperative Agreements to State and Local Governments.

27 C. Any costs for which payment has been made to the CONSULTANT that are
28 determined by subsequent audit to be unallowable under 49 CFR Part 18 and 48 CFR,

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

3 XIII. COVENANT AGAINST CONTINGENT FEES

4 The CONSULTANT warrants, by execution of this AGREEMENT, that the
5 CONSULTANT has not employed or retained any company or person, other than a bona
6 fide employee working for the CONSULTANT; to solicit or secure this AGREEMENT; and
7 that CONSULTANT has not paid or agreed to pay any company or person other than a
8 bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other
9 consideration, contingent upon or resulting from the award or formation of the
10 AGREEMENT. For breach or violation of this warranty, the COUNTY shall have the right
11 to annul the AGREEMENT without liability, and to pay only for the value of the work
12 actually performed by the CONSULTANT, or alternatively in the COUNTY's discretion, to
13 deduct from the contract price or consideration, or otherwise recover the full amount of
14 such any such commission, percentage, brokerage fee, gift, contingent fee or similar form
15 of consideration previously paid by the CONSULTANT.

16 XIV. RETENTION OF RECORDS/AUDIT

17 A. For the purpose of determining the sufficiency of the CONSUTLANT'S
18 performance of the contract (and compliance with Public Contract Code 10115, et seq. and
19 Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when
20 applicable), the CONSULTANT, subcontractors, and the COUNTY, and each of them, shall
21 maintain all books, documents, papers, accounting records, and other evidence pertaining
22 to the performance of this AGREEMENT, including but not limited to, the costs of
23 administering this AGREEMENT.

24 B. All parties shall make such materials available at their respective offices at all
25 reasonable times throughout the entirety of the contract term and for three years from the
26 date of final payment under the contract, pursuant to Government Code 8546.7. The state,
27 the State Auditor, the COUNTY, Federal Highway Administration, or any duly authorized
28 representative of the federal government shall have access to any books, records, and

1 documents of the CONSULTANT that are pertinent to the contract for audit, examinations,
2 excerpts, and transactions, and copies thereof shall be furnished if requested. It shall be
3 the responsibility of the CONSULTANT to ensure that all subcontracts in excess of
4 \$25,000 shall contain this provision.

5 C. The CONSULTANT and subconsultants' contracts, including cost proposals
6 and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a
7 Contract Audit, an Incurred Cost Audit, an ICR Audit, or a certified public accountant (CPA)
8 ICR Audit Workpaper Review. If selected for audit or review, the AGREEMENT, cost
9 proposal and ICR and related workpapers, if applicable, will be reviewed to verify
10 compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances
11 of a CPA ICR Audit Workpaper Review it is the CONSULTANT'S responsibility to ensure
12 federal, state, or local government officials are allowed full access to the CPA's
13 workpapers. The AGREEMENT, cost proposal, and ICR shall be adjusted by the
14 CONSULTANT and approved by the CONTRACT ADMINISTRATOR to conform to the
15 audit or review recommendations. The CONSULTANT agrees that individual terms of costs
16 identified in the audit report shall be incorporated into the AGREEMENT by this reference if
17 directed by COUNTY at its sole discretion. Refusal by the CONSULTANT to incorporate
18 audit or review recommendations, or to ensure that the Federal, State, or local
19 governments have access to CPA workpapers, will be considered a breach of the
20 AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of
21 prior reimbursed costs.

22 XV. AUDIT REVIEW PROCEDURES

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

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

1 C. Neither the pendency of a dispute nor its consideration by the COUNTY will
2 excuse the CONSULTANT from full and timely performance, in accordance with the terms
3 of this AGREEMENT.

4 D. The CONSULTANT and subconsultants' contracts, including cost proposals
5 and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a
6 Contract Audit, an Incurred Cost Audit, an ICR Audit, or a certified public accountant (CPA)
7 ICR Audit Workpaper Review. If selected for audit or review, the contract, cost proposal
8 and ICR and related workpapers, if applicable, will be reviewed to verify compliance with 48
9 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit
10 Workpaper Review it is the CONSULTANT's responsibility to ensure federal, state, or local
11 government officials are allowed full access to the CPA's workpapers. The AGREEMENT,
12 cost proposal, and ICR shall be adjusted by CONSULTANT and approved by the
13 CONTRACT ADMINISTRATOR to conform to the audit or review recommendations. The
14 CONSULTANT agrees that individual terms of costs identified in the audit report shall be
15 incorporated into the contract by this reference if directed by the COUNTY at its sole
16 discretion. Refusal by the CONSULTANT to incorporate audit or review recommendations,
17 or to ensure that the Federal, State, or local governments have access to CPA workpapers,
18 will be considered a breach of contract terms and cause for termination of the
19 AGREEMENT and disallowance of prior reimbursed costs.

20 XVI. ERRORS OR OMISSIONS CLAIMS AND DISPUTES

21 A. Definitions:

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

26 2. A "Claim" is a demand or assertion by one of the parties seeking, as a matter
27 of right, adjustment or interpretation of contract terms, payment of money, extension of
28 time, change orders, or other relief with respect to the terms of the contract. The term

1 "Claim" also includes other disputes and matters in question between the COUNTY and
2 the CONSULTANT arising out of or relating to the contract. Claims must be made by
3 written notice. The provisions of Government Code section 901, et seq., shall apply to
4 every claim made to the COUNTY. The responsibility to substantiate claims shall rest with
5 the party making the claim. The term "Claim" also includes any allegation of an error or
6 omission by the CONSULTANT.

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

10 1. Claims, disputes or other matters in question between the parties, arising out
11 of or relating to this AGREEMENT, shall not be subject to arbitration, but shall be subject to
12 the following procedures.

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

18 3. If the COUNTY and the CONSULTANT cannot reach agreement under
19 Article XVI, Section B, Paragraph 2, the disputed issues may, upon concurrence by all
20 parties, be submitted to a panel of three (3) for a recommended resolution. The
21 CONSULTANT and the COUNTY shall each select one (1) member of the panel, and the
22 third member shall be selected by the other two panel members. The discovery rights
23 provided by California Code of Civil Procedure for civil proceedings shall be available and
24 enforceable to resolve the disputed issues. Either party requesting this dispute resolution
25 process shall, when invoking the rights to this panel, give to the other party a notice
26 describing the claims, disputes and other matters in question. Prior to twenty (20) working
27 days before the initial meeting of the panel, both parties shall submit all documents such
28 party intends to rely upon to resolve such dispute. If it is determined by the panel that any

1 party has relied on such documentation, but has failed to previously submit such
2 documentation on a timely basis to the other party, the other party shall be entitled to a 20-
3 working-day continuance of such initial meeting of the panel. The decision by the panel is
4 not a condition precedent to arbitration, mediation or litigation.

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

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

11 D. The CONSULTANT shall continue to perform its obligations under this
12 AGREEMENT pending resolution of any dispute, and the COUNTY shall continue to make
13 payments of all undisputed amounts due under this AGREEMENT.

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

18 XVII. SUBCONTRACTING

19 A. The CONSULTANT shall perform the work contemplated with resources
20 available within its own organization; and no portion of the work pertinent to this contract
21 shall be subcontracted without written authorization by the CONTRACT ADMINISTRATOR,
22 excepting only those portions of the work and the responsible subconsultants that are
23 expressly identified in Appendix A hereto.

24 B. Any subcontract in excess of \$25,000 entered into as a result of the
25 AGREEMENT, shall contain all the provisions stipulated in this AGREEMENT to be
26 applicable to subconsultants.

27 C. Any substitution of subconsultants must be approved in writing by the
28 CONTRACT ADMINISTRATOR.

1 XVIII. EQUIPMENT PURCHASE

2 A. Prior authorization in writing, by the CONTRACT ADMINISTRATOR shall be
3 required before the CONSULTANT enters into any unbudgeted purchase order, or
4 subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. The
5 CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such
6 costs.

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

13 C. Any authorized purchase of equipment as a result of this AGREEMENT is
14 subject to the following: "The CONSULTANT shall maintain an inventory of all
15 nonexpendable property. Nonexpendable property is defined as having a useful life of at
16 least two years and an acquisition cost of \$5,000 or more. If the purchased equipment
17 needs replacement and is sold or traded in, the COUNTY shall receive a proper refund or
18 credit at the conclusion of the contract, or if the contract is terminated, the CONSULTANT
19 may either keep the equipment and credit the COUNTY in an amount equal to its fair
20 market value, or sell such equipment at the best price obtainable at a public or private sale,
21 in accordance with established COUNTY procedures; and credit the COUNTY in an
22 amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair
23 market value shall be determined at the CONSULTANT'S expense, on the basis of a
24 competent independent appraisal of such equipment. Appraisals shall be obtained from an
25 appraiser mutually agreeable to by the COUNTY and the CONSULTANT, if it is determined
26 to sell the equipment, the terms and conditions of such sale must be approved in advance
27 by the COUNTY." Title 49 CFR, Part 18 requires a credit to Federal funds when
28 participating equipment with a fair market value greater than \$5,000.00 is credited to the

1 PROJECT.

2 XIX. INSPECTION OF WORK

3 The CONSULTANT and any subcontractor shall permit the COUNTY, the state, and
4 the FHWA to review and inspect the PROJECT activities and files at all reasonable times
5 during the performance period of the AGREEMENT including review and inspection on a
6 daily basis.

7 XX. INSURANCE

8 A. Without limiting the COUNTY'S right to obtain indemnification from the
9 CONSULTANT or any third parties, the CONSULTANT, at its sole expense, shall maintain
10 in full force and effect, the following insurance policies prior to commencement of any work
11 for the COUNTY and, thereafter, throughout the entire term of this AGREEMENT (with the
12 exception of Professional Liability Insurance, which the CONSULTANT shall maintain in full
13 force and effect for the additional period of time required by Article XX, Section A,
14 Paragraph 4).

15 1. Commercial General Liability Insurance with limits not less than One Million
16 Dollars **(\$1,000,000.00)** per occurrence and an annual aggregate of not less than Two
17 Million Dollars **(\$2,000,000.00)**. This policy shall be issued on a per occurrence basis. The
18 COUNTY may require specific coverages including completed operations, products liability,
19 contractual liability, Explosion-Collapse-Underground, fire legal liability or any other liability
20 insurance deemed necessary because of the nature of this AGREEMENT.

21 2. Comprehensive Automobile Liability Insurance with limits for bodily injury of
22 Two Hundred Fifty Thousand Dollars **(\$250,000.00)** per person, Five Hundred Thousand
23 Dollars **(\$500,000.00)** per accident and for property damages of Fifty Thousand Dollars
24 **(\$50,000.00)**, or such coverage with a combined single limit of Five Hundred Thousand
25 Dollars **(\$500,000.00)**. Coverage should include owned and non-owned vehicles used in
26 connection with this AGREEMENT.

27 3. Worker's Compensation insurance policy as required by the California Labor
28 Code.

1 4. Professional Liability Insurance:

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

5 b. The Professional Liability Insurance shall be kept in full force and
6 effect for a period of three (3) years from the date of substantial completion of the
7 CONSULTANT'S work as determined by the COUNTY.

8 The CONSULTANT shall obtain endorsements to the Commercial General Liability
9 insurance naming the COUNTY, its officers, agents, and employees, individually and
10 collectively, as additional insured, but only insofar as the operations under this
11 AGREEMENT are concerned. Such coverage for additional insured shall apply as primary
12 insurance and any other insurance, or self-insurance, maintained by the COUNTY, its
13 officers, agents and employees shall be excess only and not contributing with insurance
14 provided under the CONSULTANT'S policies herein. The CONSULTANT shall give the
15 COUNTY at least thirty (30) days advance written notice of any cancellation, expiration,
16 reduction or other material change in coverage with respect to any of the aforesaid policies.

17 Prior to commencing any such work under the AGREEMENT, the CONSULTANT
18 shall provide to the COUNTY certificates of insurance and endorsements for all of the
19 required policies as specified above, stating that all such insurance coverage has been
20 obtained and is in full force; that the COUNTY, its officers, agents and employees will not
21 be responsible for any premiums on the policies; that such Commercial General Liability
22 insurance names the COUNTY, its officers, agents and employees, individually and
23 collectively, as additional insured, but only insofar as the operations under this
24 AGREEMENT are concerned; that such coverage for additional insured shall apply as
25 primary insurance and any other insurance, or self-insurance, maintained by the COUNTY,
26 its officers, agents and employees, shall be excess only and not contributing with insurance
27 provided under the CONSULTANT'S policies herein; and that this insurance shall not be
28 cancelled or changed without a minimum of thirty (30) days advance, written notice given

1 to the COUNTY. All certificates shall clearly indicate the COUNTY'S identifying Contract
2 Number for this AGREEMENT, and the certificates shall be sent to the attention of the
3 CONTRACT ADMINISTRATOR.

4 In the event the CONSULTANT fails to keep in effect at all times insurance
5 coverage as herein provided, the COUNTY may, in addition to other remedies it may have,
6 suspend or terminate this AGREEMENT upon the occurrence of such event. All policies
7 shall be issued by admitted insurers licensed to do business in the State of California, and
8 all such insurance shall be purchased from companies possessing a current A.M. Best,
9 Inc. rating of A and FSC VII or better.

10 XXI. OWNERSHIP OF DATA

11 A. All documents, including preliminary documents, calculations, and survey
12 data, required in performing services under the AGREEMENT shall be submitted to, and
13 shall remain at all times the property of the COUNTY regardless of whether they are in the
14 possession of the CONSULTANT or any other person, firm, corporation or agency.

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

1 clear of any claim by the CONSULTANT or anyone claiming any right through the
2 CONSULTANT. The CONSULTANT further acknowledges and agrees the COUNTY's
3 ownership rights in such drawings or work product, shall apply regardless of whether such
4 drawings or work product, or any copies thereof, are in possession of the CONSULTANT,
5 or any other person, firm, corporation, or entity. For purposes of this AGREEMENT the
6 terms "drawings and work product" shall mean all reports and study findings commissioned
7 to develop the PROJECT design, drawings and schematic or preliminary design
8 documents, certified reproducibles of the original final construction contract drawings,
9 specifications, the approved estimate, record drawings, as-built plans, and discoveries,
10 developments, designs, improvement, inventions, formulas, processes, techniques, or
11 specific know-how and data generated or conceived or reduced to practice or learning by
12 the CONSULTANT, either alone or jointly with others, that result from the tasks assigned to
13 the CONSULTANT by the COUNTY under the AGREEMENT.

14 C. If the AGREEMENT is terminated during or at the completion of any phase
15 under Article III, a reproducible copy of report(s) or preliminary documents shall be
16 submitted by the CONSULTANT to the COUNTY, which may use them to complete the
17 PROJECT(S) at a future time.

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

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

28 The electronic files provided by the CONSULTANT to the COUNTY are submitted

1 for an acceptance period lasting until the expiration of the AGREEMENT (i.e., throughout
2 the duration of the contract term, including any extensions). Any defects the COUNTY
3 discovers during such acceptance period will be reported to the CONSULTANT and will be
4 corrected as part of the CONSULTANT'S "Basic Scope of Work."

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

13 G. The COUNTY, in the discretion of its Board of Supervisors, may permit the
14 copyrighting of reports or other products of the AGREEMENT; and provided further, that if
15 copyrights are permitted; the CONSULTANT hereby agrees and this AGREEMENT shall
16 be deemed to provide that the Federal Highway Administration shall have the royalty-free
17 nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize
18 others to use, the work for government purposes.

19 XXII. CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR

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

26 B. The CONSULTANT'S personnel that the COUNTY considers essential to
27 assist in defending against the CONTRACTOR claims will be made available on
28 reasonable notice from the DIRECTOR. Services of the CONSULTANT'S personnel in

1 connection with consultation or testimony for this purpose will be performed pursuant to a
2 written contract amendment, if determined by the parties to be necessary or appropriate.

3 XXIII. CONFIDENTIALITY OF DATA

4 A. All financial, statistical, personal, technical, or other data and information
5 relative to the COUNTY'S operations, which are designated confidential by the COUNTY
6 and made available to the CONSULTANT in order to carry out the AGREEMENT, shall be
7 protected by the CONSULTANT from unauthorized use and disclosure.

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

11 C. The CONSULTANT shall not comment publicly to the press or any other
12 media regarding the AGREEMENT or the COUNTY's actions on the same, except to the
13 COUNTY's staff, the CONSULTANT'S own personnel involved in the performance of the
14 AGREEMENT, at public hearings or in response to questions from a Legislative committee.

15 D. The CONSULTANT shall not issue any news release or public relations item
16 of any nature, whatsoever, regarding work performed or to be performed under the
17 AGREEMENT without prior review of the contents thereof by the COUNTY, and receipt of
18 the COUNTY'S written permission.

19 E. All information related to the construction estimate is confidential, and shall
20 not be disclosed by the CONSULTANT to any entity other than the COUNTY.

21 XXIV. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

28 XXV. EVALUATION OF CONSULTANT

1 The CONSULTANT'S performance will be evaluated by the COUNTY using the form
2 attached as Appendix E. A copy of the evaluation will be sent to the CONSULTANT for
3 comments. The evaluation together with the comments shall be retained as part of the
4 contract record.

5 XXVI. STATEMENT OF COMPLIANCE: NON-DISCRIMINATION

6 A. The CONSULTANT'S signature affixed herein, and dated, shall constitute a
7 certification under penalty of perjury under the laws of the State of California that the
8 CONSULTANT has, unless exempt, complied with, the nondiscrimination program
9 requirements of Government Code Section 12990 and Title 2, California
10 Administrative Code, Section 8103.

11 B. During the performance of the AGREEMENT, the CONSULTANT and its
12 subconsultants shall not unlawfully discriminate, harass, or allow harassment against any
13 employee or applicant for employment because of sex, race, color, ancestry, religious
14 creed, national origin, physical disability (including HIV and AIDS), mental disability,
15 medical condition (e.g., cancer), age (over 40), marital status, and denial of family care
16 leave. The CONSULTANT and subconsultants shall insure that the evaluation and
17 treatment of their employees and applicants for employment are free from such
18 discrimination and harassment. The CONSULTANT and subconsultants shall comply with
19 the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.)
20 and the applicable regulations promulgated thereunder (California Code of Regulations,
21 Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and
22 Housing Commission implementing Government Code Section 12990 (a-f), set forth in
23 Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated
24 into the AGREEMENT by reference and made a part hereof as if set forth in full. The
25 CONSULTANT and subconsultants shall give written notice of their obligations under this
26 clause to labor organizations with which they have a collective bargaining or other
27 Agreement.

28 C. The CONSULTANT and subconsultants shall include the nondiscrimination

1 and compliance provisions of this clause in all subcontracts to perform work under the
2 AGREEMENT.

3 XXVII. DEBARMENT AND SUSPENSION CERTIFICATION

4 A. The CONSULTANT'S signature affixed herein, shall constitute a certification
5 under penalty of perjury under the laws of the State of California, that the CONSULTANT
6 has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and
7 Suspension Certificate, which certifies that he/she or any person associated therewith in
8 the capacity of owner, partner, director, officer, or manager, is not currently under
9 suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal
10 agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible
11 by any federal agency within the past three (3) years; does not have a proposed
12 debarment pending; and has not been indicted, convicted, or had a civil judgment rendered
13 against it by a court of competent jurisdiction in any matter involving fraud or official
14 misconduct within the past three (3) years. Any exceptions to this certification must be
15 disclosed to the COUNTY on Appendix F.

16 B. Exceptions will not necessarily result in denial of recommendation for award,
17 but will be considered in determining CONSULTANT responsibility. Disclosures must
18 indicate to whom exceptions apply, initiating agency, and dates of action.

19 C. Exceptions to the Federal Government Excluded Parties Listing System
20 maintained by the General Services Administration are to be determined by the Federal
21 Highway Administration.

22 XXVIII. COMPLIANCE WITH LAWS AND STATE PREVAILING WAGE RATES

23 A. The CONSULTANT shall comply with the State of California's General
24 Prevailing Wage Rate requirements in accordance with California Labor Code, Section
25 1770, and all Federal, State, and local laws and ordinances applicable to the work.

26 B. Any subcontract entered into as a result of this contract if for more than
27 \$25,000 for public works construction or more than \$15,000 for the alteration, demolition,
28 repair, or maintenance of public works, shall contain all of the provisions of this Article.

1 XXVIII. CONFLICT OF INTEREST

2 A. The CONSULTANT shall comply with the provisions of the Fresno County
3 Department of Public Works and Planning Conflict of Interest Code, attached hereto as
4 Appendix G and incorporated herein. Such compliance shall include the filing of annual
5 statements pursuant to the regulations of the State Fair Political Practices Commission
6 including, but not limited to, portions of Form 700.

7 B. The CONSULTANT shall disclose any financial, business, or other
8 relationship with the COUNTY that may have an impact upon the outcome of this contract,
9 or any ensuing COUNTY construction project. The CONSULTANT shall also list current
10 clients who may have a financial interest in the outcome of this contract, or any ensuing
11 COUNTY construction project, which will follow.

12 C. The CONSULTANT hereby certifies that it does not now have, nor shall it
13 acquire any financial or business interest that would conflict with the performance of
14 services under this AGREEMENT.

15 D. The CONSULTANT hereby certifies that neither the CONSULTANT, nor any
16 firm affiliated with the CONSULTANT will bid on any construction contract, or on any
17 contract to provide construction inspection for any construction PROJECT resulting from
18 this AGREEMENT; provided, however, that this shall not be construed as disallowing
19 CONSULTANT or affiliated firm from performing, pursuant to this AGREEMENT or other
20 agreement with the COUNTY, construction inspection services on behalf of COUNTY for
21 the PROJECT. An affiliated firm is one, which is subject to the control of the same persons
22 through joint ownership, or otherwise.

23 E. Except for subconsultants or subcontractors whose services are limited to
24 providing surveying or materials testing information, no subcontractor who has provided
25 design services in connection with this contract shall be eligible to bid on any construction
26 contract, or on any contract to provide construction inspection for any construction project
27 resulting from this contract; provided, however, that this shall not be construed as
28 disallowing subcontractors who have provided design services for the PROJECT from

performing, pursuant to this AGREEMENT or other agreement with the COUNTY, construction inspection services on behalf of the COUNTY for the PROJECT.

XXX. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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, the COUNTY shall have the right, in its discretion, to do any of the following: terminate the AGREEMENT without liability; or 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.

XXXI. PROHIBITION OF EXPENDING COUNTY STATE OR FEDERAL FUNDS FOR LOBBYING

A. The CONSULTANT shall sign the lobbying forms, attached hereto and incorporated herein as Appendix H, as required by the instructions found on each form.

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

1. No state, federal or COUNTY 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 any of the following:

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

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

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

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

17 XXXII. INDEPENDENT CONTRACTOR

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

28 B. The CONSULTANT and the COUNTY shall comply with all applicable

provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

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

XXXIII. DISCLOSURE OF SELF-DEALING TRANSACTIONS

This provision is only applicable if the CONSULTANT is operating as a corporation (a for-profit or non-profit corporation) or if during the term of the AGREEMENT, the CONSULTANT changes its status to operate as a corporation. Members of the CONSULTANT'S Board of Directors shall disclose any self-dealing transactions that they are a party to while the CONSULTANT is providing goods or performing services under the AGREEMENT. A self-dealing transaction shall mean a transaction to which the CONSULTANT is a party and in which one or more of its directors has a material financial interest. Members of the Board of Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a Self-Dealing Transaction Disclosure Form, attached hereto and incorporated as Appendix I and submitting it to the COUNTY prior to commencing with the self-dealing transaction or immediately thereafter.

XXXIV. NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed to the CONTRACT ADMINISTRATOR and the CONSULTANT'S Project Manager identified

on Page 1 of this AGREEMENT.

XXXV. NON-ASSIGNMENT

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

XXXVI. CONSULTANT'S LEGAL AUTHORITY

Each individual executing or attesting the AGREEMENT on behalf of the CONSULTANT hereby covenants, warrants, and represents: (i) that he or she is duly authorized by or in accordance with CONSULTANT'S corporate by-laws to execute or attest and deliver the AGREEMENT on behalf of the CONSULTANT; and (ii) that the AGREEMENT, once he or she has executed it, is and shall be binding upon such Corporation.

XXXVII. BINDING UPON SUCCESSORS

The AGREEMENT shall be binding upon and inure to the benefit of the parties and their respective successors in interest, assigns, legal representatives, and heirs.

XXXVIII. INCONSISTENCIES

In the event of any inconsistency in interpreting the documents which constitute the AGREEMENT, the inconsistency shall be resolved by giving precedence in the following order of priority: (1) the text of the AGREEMENT (excluding Appendices); (2) Appendices to the AGREEMENT.

XXXIX. SEVERABILITY

Should any part of this AGREEMENT be determined to be invalid or unenforceable, then this AGREEMENT shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this AGREEMENT are hereby declared to be severable.

XL. FINAL AGREEMENT

Both of the above-named parties to this AGREEMENT hereby expressly agree that this AGREEMENT constitutes the entire agreement which is made and concluded in duplicate between the two parties with respect to the subject matter hereof and supersedes

1 all previous negotiations, proposals, commitments, writing, advertisements, publications,
2 and understandings of any nature whatsoever unless expressly included in this
3 AGREEMENT. In consideration of promises, covenants and conditions contained in this
4 AGREEMENT, the CONSULTANT and the COUNTY, and each of them, do hereby agree
5 to diligently perform in accordance with the terms and conditions of the AGREEMENT, as
6 evidenced by the signatures below.

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1 IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be
2 executed as of the day and year first above written.

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COUNTY OF FRESNO

REVIEWED AND RECOMMENDED
FOR APPROVAL

BY: _____
DEBORAH POOCHIGIAN,
CHAIRMAN,
BOARD OF SUPERVISORS

BY: _____
ALAN WEAVER, DIRECTOR
DEPARTMENT OF PUBLIC WORKS
AND PLANNING

APPROVED AS TO LEGAL FORM
COUNTY COUNSEL

BY: _____
DEPUTY

APPROVED AS TO ACCOUNTING
FORM

BY: _____
VICKI CROW, C.P.A.
AUDITOR-CONTROLLER/
TREASURER-TAX COLLECTOR