

# **AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND AECOM, TECHNICAL SERVICES, INC.**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and AECOM Technical Services, Inc., hereinafter called "Contractor."

\* \* \*

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing construction management services in connection with the Crystal Springs Dam Bridge Replacement Project, hereinafter referred to as the "Project," and:

**Now, therefore, it is agreed by the parties to this Agreement as follows:**

## **1. Exhibits and Attachments**

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services  
Exhibit B—Payments and Rates  
Exhibit C—Project Map of Crystal Springs Dam Bridge  
Exhibit D— Consultant Performance Evaluation (Local Assistance Procedures Manual (LAPM), "Exhibit 10-S")  
Exhibit E— Disadvantaged Business Enterprise Reporting Information (LAPM, "Exhibit 10-O2")  
Exhibit F— Final Reporting- Utilization of Disadvantaged Business Enterprise (LAPM, "Exhibit 17-F")  
Exhibit G— Federal Lobbying Reporting Information (LAPM, "Standard Form-LLL")

## **2. Services to be performed by Contractor**

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A. Project location is shown in Exhibit C, Project Map of Crystal Springs Dam Bridge.

Upon completion of the Agreement, pursuant to 23 CFR §172.9(a), County is required to prepare an evaluation of the Contractor. The County Director of Public Works (Director) evaluates the Contractor's performance after the Contractor's final report has been submitted, and the Director has conducted a detailed evaluation with the Contractor's project manager. This evaluation shall be prepared using the form entitled, "Exhibit D: Exhibit 10-S Consultant Performance Evaluation." This evaluation form together with Contractor's comments shall be retained as part of the contract record.

### **3. Payments**

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit A, and as incorporated herein by reference. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is nonconforming to customary standard of care and the requirements defined under the scope of work. In no event shall County's total fiscal obligation under this Agreement exceed Two Million Two hundred Thirty Thousand Four Hundred and Fifty Eight and No/100 Dollars, (\$2,230,458). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration.

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

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

The County shall hold retention from the Contractor and shall make prompt and regular incremental acceptances of portions, as determined by the County of the contract work and pay retention to the Contractor based on these acceptances. The Contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the County. Any delay or postponement of payment may take place only for good cause and with the County's prior written approval. Any violation of these provisions shall subject the violating Contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the Contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the Contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allow ability of individual items.

Contractor also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 49 CFR Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Contractor to County.

### **4. Allowable Costs and Payments**

(a) The method of payment for this Agreement will be based on actual cost plus a fixed fee. County will reimburse Contractor for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Contractor in performance of the work. Contractor will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved

Contractor's Cost Proposal, unless additional reimbursement is provided for by Agreement amendment. In no event, will Contractor be reimbursed for overhead costs at a rate that exceeds County's approved overhead rate set forth in the Cost Proposal. In the event, that County determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by County shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "h" below, shall not be exceeded, unless authorized by contract amendment. Contractor shall notify the County before such sum is exceeded and shall not continue to provide the services beyond such sum unless the County authorizes an increase in the sum.

(b) In addition to the allowable incurred costs, County will pay Contractor a fixed fee of \$200,059. The fixed fee is nonadjustable for the term of the contract, except in the event of a change in the scope of work and such adjustment is made by contract amendment.

(c) Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

(d) When milestone cost estimates are included in the approved Cost Proposal, Contractor shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

(e) Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of Contractor's fixed fee will be included in the monthly progress payments. If Contractor fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, County shall have the right to delay payment or terminate this Contract.

(f) No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.

(g) Contractor will be reimbursed, within 30 days after receipt by County's Contract Administrator of itemized invoices. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Contractor is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due County including any equipment purchased under the provisions of Paragraph 5 Equipment Purchase of this Agreement. The final invoice should be submitted within 60 calendar days after completion of Contractor's work. Invoices shall be mailed to San Mateo County Department of Public Works Accounting Section at the following address:

San Mateo County Department of Public Works  
Accounting Section  
555 County Center, 5<sup>th</sup> Floor,  
Redwood City, CA 94063

(h) The total amount payable by County including the fixed fee shall not exceed \$2,230,458.00.

(i) Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by County's Contract Administrator. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

(j) All subcontracts in excess of \$25,000 shall contain the above provisions.

## **5. Equipment Purchase**

Prior authorization in writing, by County's Contract Administrator shall be required before Contractor enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or Contractor services. Contractor shall provide an evaluation of the necessity or desirability of incurring such costs.

For purchase of any item, service or consulting work not covered in Contractor's Cost Proposal and exceeding \$5,000 prior authorization by County's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

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

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

## **6. Disputes**

Any dispute, other than audit, concerning a question of fact arising under this agreement that is not disposed of by agreement shall be decided by a committee consisting of County's Director of Public Works and Manager of Risk Management, who may consider written or verbal information submitted by Contractor.

Not later than 30 days after completion of all work under the agreement, Contractor may request review by aforementioned committee of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

Neither the pendency of a dispute, nor its consideration by the committee will excuse Contractor from full and timely performance in accordance with the terms of this agreement.

## **7. Term**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from November 17, 2015, through November 16, 2018.

This agreement may be amended or modified only by mutual written agreement of the parties.

There shall be no change in Contractor's Project Manager or members of the project team, set forth herein and in Exhibit A, without prior written approval by the San Mateo County Director of Public Works.

## **8. Termination; Availability of Funds**

This Agreement may be terminated by Contractor or by the Director of Public Works or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

#### **9. Contract Materials**

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

#### **10. Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

#### **11. Conflict Of Interest**

Contractor shall disclose any financial, business, or other relationship with County that may have an impact upon the outcome of this agreement, or any ensuing County construction project. Contractor shall also list current clients who may be known to have a financial interest in the outcome of this agreement, or any ensuing County construction project, which will follow.

Contractor hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this agreement.

Contractor hereby certifies that neither Contractor, its employees, nor any firm affiliated with Contractor providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this agreement. An affiliated firm is one, which is subject to the control of the same persons through joint- ownership, or otherwise.

Contractor further certifies that neither Contractor, nor any firm affiliated with Contractor, will bid on any construction subcontracts included within the construction contract. Additionally, Contractor certifies that no person working under this agreement is also employed by the construction contractor for any project included within this agreement.

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

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

#### **12. Rebates, Kickbacks Or Other Unlawful Consideration**

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

### **13. Disadvantaged Business Enterprise (DBE) Participation**

DBE Participation: This Contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantage Business Enterprises in Department of Transportation Financial Assistance Programs." Contractors who obtain DBE participation on this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

(a) DBE and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the County deems appropriate.

(b) The Contractor must meet the DBE goal contained in this agreement by committing DBE participation or document a good faith effort to meet the goal. If a DBE subcontractor is unable to perform, the Contractor must make a good faith effort to replace him/her with another DBE subcontractor, if the goal is not otherwise met. A DBE is a firm meeting the definition of a DBE as specified in 49 CFR.

(c) Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Section.

(d) A DBE may be terminated only with prior written approval from the County and for reasons specified in 49 CFR 26.53(f). Prior to requesting the County for termination, the Contractor must meet the procedural requirements specified in 49 CFR 26.53(f).

Performance of DBE Contractors and other DBE Sub consultants/Suppliers.

(a) A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.

(b) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

(c) If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

#### DBE Records.

(a) The Contractor shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE Contractors shall also show the date of work performed by their own forces along with the corresponding dollar value of the work. Exhibit E "Disadvantaged Business Enterprise Reporting Information," instruction and forms shall be utilized for DBE reporting.

(b) Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form entitled, "Exhibit F - 17-F Final Report-Utilization of Disadvantaged Business Enterprises (DBE)," CEM-2402F, certified correct by the Contractor or the Contractor's authorized representative and shall be furnished to the County with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Contractor when a satisfactory "Final Report Utilization of Disadvantaged Business Enterprises (DBE)" is submitted to the County.

#### DBE Certification and Decertification Status.

If a DBE subcontractor is decertified during the life of the Agreement, the decertified subcontractor shall notify the Contractor in writing with the date of de-certification. If a subcontractor becomes a certified DBE during the life of the Agreement, the subcontractor shall notify the Contractor in writing with the date of certification. Any changes should be reported to the within 30 days.

#### Subcontractors

(a) Nothing contained in this Contract or otherwise, shall create any contractual relation between the County and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the County's obligation to make payments to the Contractor.

(b) Any subcontract in excess of \$25,000, entered into as a result of this Contract, shall contain all the provisions stipulated in this Contract to be applicable to subcontractors.

(c) Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by the County.

(d) Any substitution of subcontractors must be approved in writing by the County's Contract Administrator in advance of assigning work to a substitute subcontractor.

#### **14. Hold Harmless**

##### **a. General Hold Harmless**

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made

pursuant to this Agreement brought for, or on account of, any of the following to the extent caused by the negligence or willful misconduct of Contractor:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**b. Intellectual Property Indemnification**

Contractor hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement. Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.



Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

#### **15. Assignability and Subcontracting**

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the County and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the County's obligation to make payments to the Contractor.

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

Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by the County.

Any substitution of subcontractors must be approved in writing by the County's Contract Director of Public Works in advance of assigning work to a substitute subcontractor.

#### **16. Inspection of Work**

Contractor and any subcontractor shall permit County, the state, and the FHWA; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

#### **17. Safety**

Contractor shall comply with OSHA regulations applicable to Contractor regarding necessary safety equipment or procedures. Contractor shall comply with safety instructions issued by County's Department of Public Works Safety Manager and other County representatives. Contractor personnel shall wear hard hats and safety vests at all times while working on the construction project site.

Any subcontract entered into as a result of this agreement, shall contain all of the provisions of this section.

## **18. Ownership of Data**

Upon completion of all work under this agreement, ownership and title to all project reports, documents, plans, specifications, and estimates produce as part of this agreement will automatically be vested in County; and no further agreement will be necessary to transfer ownership to County. Contractor shall furnish County all necessary copies of data needed to complete the review and approval process.

It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this agreement has been entered into

Contractor is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by County of the machine-readable information and data provided by Contractor under this agreement; further, Contractor is not liable for claims, liabilities, or losses arising out of, or connected with any use by County of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as many be authorized in writing by County.

Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).

County may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

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

## **19. Confidentiality of Data**

All financial, statistical, personal, technical, or other data and information relative to County's operations, which are designated confidential by County and made available to Contractor in order to carry out this agreement, shall be protected by Contractor from unauthorized use and disclosure.

Permission to disclose information on one occasion, or public hearing held by County relating to the agreement, shall not authorize Contractor to further disclose such information, or disseminate the same on any other occasion.

Contractor shall not comment publicly to the press or any other media regarding the agreement or County actions on the same, except to County's staff, Contractor's own personnel involved in the performance of this agreement, at public hearings or in response to questions from a Legislative committee.

Contractor shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this agreement without prior review of the contents thereof by County, and receipt of County's written permission.

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

## **20. National Labor Relations Board Certification**

In accordance with Public Contract Code Section 10296, Contractor hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been

issued against Contractor within the immediately preceding two-year period, because of Contractor's failure to comply with an order of a federal court that orders Contractor to comply with an order of the National Labor Relations Board.

## **21. Payment of Permits/Licenses**

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

## **22. Insurance**

### **a. General Requirements**

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

### **b. Workers' Compensation and Employer's Liability Insurance**

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

### **c. Liability Insurance**

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

☒ Commercial or Comprehensive General Liability... \$1,000,000

(Applies to all agreements)

☒ Motor Vehicle Liability Insurance... \$1,000,000

(To be checked if motor vehicle used in performing services)

☒ Professional Liability..... \$1,000,000

(To be checked if Contractor is a licensed professional)

County and its officers, agents, employees, and servants shall be named as additional insured on the Commercial General Liability and Motor Vehicle Liability policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

### **23. Compliance With Laws**

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

### **24. Statement of Compliance**

Contractor's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Contractor has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS),

mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

The Contractor shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on

The basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

The Contractor, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

## **25. Prohibition of Expending Local Agency State or Federal Funds for Lobbying**

The Contractor certifies by signing and submitting this Agreement to the best of his or her knowledge and belief that:

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this

transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such subcontracts shall certify and disclose accordingly.

## **26. Non-Discrimination and Other Requirements**

### **a. General Non-discrimination**

Contractor's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Contractor has, unless exempt, complied with, the non-discrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

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

The Contractor shall comply with regulations relative to Title VI (non-discrimination in federally assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 – Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of non-discrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

The Contractor, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Sub consultants, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

### **b. Equal Employment Opportunity**

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations

for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

**c. Section 504 of the Rehabilitation Act of 1973**

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

**d. Compliance with County's Equal Benefits Ordinance**

With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

- ☐ Contractor complies with Chapter 2.84 by offering the same benefits to its employees with spouses and its employees with domestic partners.
- ☐ Contractor complies with Chapter 2.84 by offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.
- ☐ Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
- ☐ Contractor does not comply with Chapter 2.84, and a waiver must be sought.

**e. Discrimination Against Individuals with Disabilities**

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

**f. History of Discrimination**

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

- ☐ No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
- ☐ Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other

investigative entity. If this box is checked, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.

**g. Reporting; Violation of Non-discrimination Provisions**

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 23, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

**27. Compliance with County Employee Jury Service Ordinance**

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed Section 3, above, is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.



## **28. Retention of Records; Right to Monitor and Audit**

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

(d) For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the agreement pursuant to Government Code 8546.7; Contractor, subcontractors, and County shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering the agreement. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the agreement. The state, State Auditor, County, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of Contractor and its certified public accountants (CPA) work papers that are pertinent to the agreement and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

(e) Any dispute concerning a question of fact arising under an interim or post audit of this agreement that is not disposed of by agreement, shall be reviewed by County's Department of Public Works Financial Services Manager.

(f) Not later than 30 days after issuance of the final audit report, Contractor may request a review by County's Department of Public Works Financial Services Manager of unresolved audit issues. The request for review will be submitted in writing.

(g) Neither the pendency of a dispute nor its consideration by County will excuse Contractor from full and timely performance, in accordance with the terms of this Agreement.

(h) Contractor and subcontractors' contracts, including cost proposals and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a Contract Audit, an Incurred Cost Audit, an ICR Audit, or a certified public accountant (CPA) ICR Audit work paper Review. If selected for audit or review, the agreement, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit work paper review it is Contractor's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers. The contract, cost proposal, and ICR shall be adjusted by Contractor and approved by County contract manager to conform to the audit or review recommendations. Contractor agrees that individual terms of costs identified in the audit report shall be

incorporated into the agreement by this reference if directed by County at its sole discretion. Refusal by Contractor to incorporate audit or review recommendations, or to ensure that the Federal, State, or local governments have access to CPA work papers, will be considered a breach of agreement terms and cause for termination of the agreement and disallowance of prior reimbursed costs.

### **29. Merger Clause; Amendments**

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

### **30. Debarment and Suspension Certification**

Contractor signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Contractor has complied with Title 2 CFR Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to County.

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

Exceptions to the Federal Government Excluded Parties List System maintained by the Federal General Services Administration are to be determined by the Federal highway Administration.

### **31. Controlling Law; Venue**

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

### **32. Notices**

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address

listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: James C. Porter, Director of Public Works, Department of Public Works  
Address: 555 County Center, 5<sup>th</sup> Floor, Redwood City, CA 94063-1665  
Telephone: 650-363-4100  
Facsimile: 650-361-8220  
Email: jporter@smcgov.org

In the case of Contractor, to:

Name/Title: Jason Tom, Vice President, AECOM  
Address: 2300 Clayton Road Suite 1400, Concord, CA 94520  
Telephone: 925-446-3839  
Facsimile: 925-446-3801  
Email: jason.tom@aecom.com

### **33. Electronic Signature**

If both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: ☐ If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Contractor: ☐ If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

\* \* \*

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

COUNTY OF SAN MATEO

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

President, Board of Supervisors, San Mateo County

Date: \_\_\_\_\_

ATTEST:

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

Clerk of Said Board

AECOM Technical Services, Inc.

\_\_\_\_\_  
Contractor's Signature

Date: \_\_\_\_\_

*(April 1, 2015 CCC issued contract template version)*

DRAFT

## **Exhibit A**

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

Assisting the County in construction management support services for the construction of the Crystal Springs Dam Bridge Replacement project:

### **Part A) Mitigation Measures Compliance:**

As part of the MMRP developed and approved for this project, the Contractor will be responsible for verifying that the Construction Contractor is, in general, compliance with the requirements of the MMRP document. The outline below lists the various mitigation measures that were deemed to be of significant importance and will need to be adhered to during the course of construction.

**Mitigation Measures** – The following specified mitigation measures are consistent with the Mitigation Monitoring and Reporting Plan (MMRP), the USFWS's 2009 Amendment to its 1999 Biological Opinion, as well as, portions of the USFWS's 1999 Biological Opinion which remain unchanged.

#### **Mitigation Measure Air-1 (MMRP)**

The Construction Contractor will implement basic feasible control measures from the Bay Area Air Quality Management District's (BAAQMD) for Construction Emissions of Particle Matter (PM<sub>10</sub>). Under this task, the Contractor would adhere, implement, and oversee that this Mitigation Measure is enforced.

#### **Mitigation Measure Air-2 (MMRP)**

The Construction Contractor will implement the following measures to reduce diesel exhaust, thereby reducing ozone precursor emissions. All equipment used in earthwork shall be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel. The operator shall maintain and effectively utilize and schedule on-site equipment in order to minimize exhaust emissions from truck idling. Under this task, the Contractor would adhere, implement, and oversee that this Mitigation Measure is enforced. Contractor shall verify that Construction Contractor's employees sign an acknowledgement of receipt on the briefing and submit.

#### **Mitigation Measure Bio-12 (MMRP)**

The County has developed a Restoration, Monitoring, and Reporting Plan (RMRP). Under this task, the Contractor shall verify and oversee the removal of existing vegetation, details of site preparation, species and size of trees to be planted, irrigation of the trees and inspection of the planting process.

#### **Mitigation Measure Geo-1 (MMRP)**

The County will implement the BMPs and conservation measures detailed in the County of San Mateo Watershed Protection Program's Maintenance Standards to prevent erosion and siltation. Under this task, the Contractor shall verify and document proper implementation of BMPs. This task shall be completed by a qualified QSP.

### **Mitigation Measure Util-1 (MMRP)**

The Construction Contractor will develop a waste management or recycling plan that includes procedures to identify the types of debris that would be generated by the project. The Contractor shall review waste management or recycling plan to confirm at least 100 percent of inert solids would be diverted prior to construction commencement.

Should the Construction Contractor not be in compliance with the mitigation measures listed above, the Contractor shall have the authority to stop all work until all mitigation measures are met. The Contractor shall notify the County immediately upon discovering any violations and shall prepare a written account of events, and plan on how to meet compliance.

### **Part B) Construction Management Services:**

The County's Construction Contractor will furnish a construction management field office onsite at a location designated by the County. The overall size of the field office shall be 200 square feet minimum, and shall be furnished with doors and windows capable of being locked. The field office will be well constructed, leveled, properly ventilated, lighted, heated, air conditioned, and furnished with office furniture.

### **Daily Inspection Services**

- Contractor will provide daily resident engineering, field inspection, and act as an onsite inspector during all activities of the construction work for general construction plans compliance. The total anticipated working time for the bridge reconstruction project and the subsequent PG&E work is twenty-four (24) months. The Contractor will be required to be present to oversee daily construction activities.
- Contractor shall verify the work performed and materials furnished are in general compliance with the approved plans, specifications, submittals and any other requirements.
- Contractor shall be well versed in the review of structural drawings, structural related submittals, and structural calculations. County's design Consultant will be responsible for approval of submittals. Contractor shall review submittals for general construction conformance and must be able to interpret field conditions as they relate to the structural drawings and submittals.
- Contractor shall confirm that no work is completed that has not been properly approved or otherwise fails to generally conform to the plans, specifications, submittals, or other requirements.
- Contractor shall assist with the review of Request for Information from Construction Contractor (RFIs), submittals, correspondence, false work plans, progress schedule review and support, and additional engineering services not listed but required for project completion.
- Review progress payments, claims analysis, prepare contract change orders and independent cost estimates for proposed change orders.
- Review all requests for change orders from the Construction Contractor and obtain cost proposals from the Construction Contractor. Prepare a report recommending approval or disapproval on change orders providing detailed description evaluating the costs based on the quantities of labor, equipment, and materials.
- Contractor shall schedule any necessary meetings as they relate to the project. Contractor shall record meeting minutes and distribute to all attendees, no later than two (2) working days after meeting is held.

- Coordinate, administer, conduct, and oversee required and specified project testing. Obtain copies of testing reports and compare with the approved criteria provided in the project documents.
- Maintain a record of statement of working days and distribute copies at the end of each work week to the County, the Construction Contractor, and other interested parties as determined by the County.
- A qualified QSP shall inspect, monitor, and document the project for SWPPP and BMP compliance. i.e. Rain Event Action Plan (REAP) forms.
- Contractor will work closely with County's staff, onsite biological monitor, PG&E Inspectors, SFPUC, County's Design Consultant (Parsons Brinckerhoff, Inc.) and Construction Contractor.
- Contractor shall maintain accurate, orderly and detailed records of all activities performed by the Construction Contractor daily. These files will be made readily available (both in hard copy and electronic format) at all times at the request of the County.
- If disputes or claims arise during the course of construction contract, Contractor shall provide written documentation and support to the County. Contractor shall provide recommendation on the validity of disputes or claims and shall support the County in challenging the claims if deemed appropriate. The Contractor shall make themselves available to provide testimony, written dialog of events, and summary of notes and first-hand experience.
- Verify daily work logs and certified payroll.
- Daily photo collection of the construction project.
- Schedule, attend and lead project meetings.
- Create detailed punch-list report of any discrepancies or deficiencies in the finish work to be resolved prior to project closing and verify Construction Contractor completes punch-list prior to filing the Notice of Completion.
- Prepare, review, and deliver "As-Built" record drawings.
- Prepare any necessary reports, forms, or documents as required by permit conditions and file with appropriate agencies.
- Collect guarantees from manufacturer, maintenance and operation manuals, warranties, and any other data required from the Construction Contractor.
- Provide a completion report that includes all daily logs, photographic records, approved submittals, correspondence, change orders, laboratory and plant testing reports, and any other documents obtained during the course of the Project. A hard copy of the report with all supporting documents will be provided to the County in a binder. Electronic copies of the summary report with all supporting documentation will be provided by either email, on a CD, or on a flash drive.
- Coordinate inspection work with PG&E's Inspector and Construction Contractor.
- Maintain complete project files and associated documentation, record keeping of all information required for inspection and review by State, Federal, and local agency auditors.

## Testing

- Contractor will provide and conduct inspection tests for quality control and quality compliance measures in accordance with the project plans and specifications, various testing standards, and County's Quality Assurance Plan (QAP). Tests to be monitored and observed shall be at a minimum:
  - Structural concrete cylinders for concrete pours of the sub and super-structure and retaining wall structures.



- Prototype testing on the seismic isolation bearings, testing shall be at least one full-sized specimen for each bearing type.
- Relative compaction testing for backfill material.
- Mechanical weld examination.
- Asphalt concrete coring and compaction testing.
- Contractor shall obtain all testing reports and compare with approved ranges in the project documents. If testing does not fall in range of the approved values, Contractor shall contact the County as soon as possible. Any items or materials that have not passed testing requirements will not be allowed to be used on the project without prior written approval from the County.
- In the event that items or materials are installed and do not pass testing requirements, Contractor shall assist the County with determining the amount and location of the items or materials. Contractor shall provide a recommendation on the potential affect this will have on the project and provide recommendations on pay decrease based on the testing values received.

#### **Contractor Deliverables:**

- Construction monitoring daily reports and photos.
- Statement of working days.
- Meeting agendas will be provided two (2) working days prior to any meeting to all attendees.
- Meeting minutes including project status, key issues and decisions, work to be completed, action items and schedules, and cost tracking shall be provided to all meeting attendees no later than two (2) working days after meeting date.
- Monthly progress reports, final testing reports and all forms required by the County's QAP, SWPPP daily/monthly reports, REAP Forms, BMP Site Construction Site Inspection Reports, construction photos, and verification of daily personnel and equipment log (found in the project specifications).
- As-built drawings.
- Provide a completion report that includes all daily logs, photographic records, approved submittals, correspondence, change orders, laboratory and plant testing reports, and any other documents obtained during the course of the Project. A hard copy of the report with all supporting documents will be provided to the County in a binder. Electronic copies of the summary report with all supporting documentation will be provided by either email, on a CD, or on a flash drive.

All reports and deliverables will be provided to the County on a weekly basis, unless otherwise stated.

## **Exhibit B**

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

A. Compensation. Contractor shall be compensated for its work as specified in the Agreement and the attached cost proposal. Payment terms shall be based on time and materials, reimbursement, depending on the requirements of the Agreement. The hourly rates include all applicable surcharges such as taxes, insurance and fringe benefits as well as indirect costs, overhead and profit allowance. Said hourly rates shall remain in effect for the term of the Agreement, unless the County's prior written authorization is obtained for any changes.

B. Expenses. The County will reimburse Contractor for all expenses deemed reasonable and necessary by the County incurred by Contractor in the performance of this Agreement. Such reimbursement shall include travel and personal expenses incurred by employees or agents of Contractor in accordance with 48 Code of Federal Regulations Part 31 or Office of Management and Budget Circular A-122, as applicable.

C. Method of Payment. Contractor shall submit invoices for services rendered no more frequently than on a monthly basis. Invoices shall identify work for which payment is requested by the Agreement. All invoices will be dated, numbered in serial order, and signed by Contractor. Contractor shall specify the work performed, hours worked, and amount due (by personnel), authorized expenses (with receipts for such expenses), the total amount claimed under the invoice and the amount paid to date under the Agreement.