

REQUEST FOR QUALIFICATIONS

FOR

ENGINEERING AND ENVIRONMENTAL SERVICES

FOR

PREPARE CALIFORNIA KINGS RIVER AA FLOOD MITIGATION

GRANT

April 15, 2025

SUBMITTALS DUE:
May 30, 2025, BY 5:00 PM

ISSUED BY:
Tulare County Resource Management Agency
5961 S. Mooney Blvd.
Visalia, CA 93277

This RFP and enclosures and relevant project information are available at the County of Tulare website at: [Request for Proposals For Engineering Services - RMA \(ca.gov\)](#)

REQUEST FOR QUALIFICATIONS

I. INTRODUCTION AND PURPOSE

The Tulare County Resource Management Agency (“RMA”) seeks qualified applicants to provide Engineering and Environmental Services for the Prepare California Kings River AA Flood Mitigation Project (“Kings River Project”). The County may award a contract for professional and project-based engineering services and environmental services.

The Tulare County Flood Control District (“District”), a dependent special district of the County of Tulare (“County”) overseen by the Tulare County Resource Management Agency (“RMA”), wishes to seek an engineering solution considering significant environmental concerns, to address recurring issues caused by high flows along the approximately 7 mile portion of the Kings River that flows through Northern Tulare County (**Attachment A, Area Map**, provides a geographic reference of the area in question). High flows in this section have caused significant impacts to residents and businesses along the Kings River in Tulare County, including in 2017, 2019, and 2023.

II. PROJECT DESCRIPTION

The Kings River is controlled by Pine Flat Dam, located in Fresno County, California. The Kings River flows through approximately 7 miles of Tulare County. The Kings River has a channel capacity of 11,000 CFS or more through this section per Army Corps of Engineers (ACOE) Reservoir Control Manual. However, significant impacts have been felt with flows as low as 8,000 CFS during high flow events on the river in 2017, 2019, and 2023.

The County intends to enter into agreement(s) with a qualified consultant(s) to provide professional and comprehensive engineering and/or environmental planning services aimed at increasing the level of protection within the area of the County near the Kings River to limit impacts to residents, infrastructure, and businesses and to improve access to the area during and after high flow events along the river. The selected consultant(s) will review existing conditions and develop and evaluate options to reduce impacts related to these events with consideration to the environmental impacts of the options. RMA Staff will work with the selected consultant to select a preferred option, which the consultant will further develop for design, environmental review and permitting including CEQA compliance, cost benefit analysis, and otherwise meet the requirements for submission for a Hazard Mitigation Assistance grant.

This opportunity is open only to prime applicants with substantial, direct and relevant consulting experience. Applicants must demonstrate extensive experience in hydrological engineering and/or environmental consulting related to riverways, facility protection, project management, planning, design and construction oversight and administration functions. This experience must be quantified and described in the proposal. The proposed project staff shall have knowledge of the specialized practices and limitations associated with hydrological engineering improvements and in determining benefit cost analysis that determine the best solution that may be followed based on quantifiable measures.

GENERAL DISCLAIMER OF THE COUNTY

This RFQ does not commit the County to award a contract. This RFQ and the process it describes are proprietary to the County and are for the sole and exclusive benefit of the County

and residents of the area in question. No other party, including any Applicant, is intended to be granted any rights hereunder. Any response, including written documents and verbal communication, by any Applicant to this RFQ, shall become the property of the County and may be subject to public disclosure by the County, or any authorized agent of the County. The County is not liable for any costs incurred by Applicants in preparing and submitting a Statement of Qualifications (SOQs) in response to this RFQ or for any costs and expenses incurred in meeting with or making presentations to the County if so requested.

TITLE VI SOLICITATION NOTICE

The County, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations issued thereunder (49 CFR Part 21), hereby notifies all applicants that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises (DBEs) will be afforded full and fair opportunity to submit SOQs in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

III. SCOPE OF WORK

1. GENERAL PROVISIONS

For the purposes of this RFQ, RMA is requesting that services be provided by a project team including, at minimum:

A civil engineering firm capable of providing engineering, hydrological assessment and systems engineering, cost benefits analysis of proposed design implementation and or an environmental planning firm or division that is capable of addressing and quantifying any nature based solutions that may be employed as a result of this project. **Solutions shall be developed for an area of the river traversing a 7 mile stretch within Tulare County; the locus point has been identified in Attachment A – Area Map.**

All assignments under this contract will include a detailed scope of work, project budget estimate, and a required completion date. Assignments will be granted on the basis of a negotiated performance period timeline; negotiated with the project sponsor. A descriptive scope of work shall **be** refined, further developed and negotiated during the negotiation phase following consultant selection.

Required services include, but are not limited to the tasks described in this section.

All work shall be in accordance with FEMA, NFIP, CalOES, County, RMA, or other applicable standards.

All plans shall be produced in accordance with the most updated advisory bulletin or directives issued by the Federal Emergency Management Agency as pertaining to Computer Aided Design (CAD) and ArcGIS standards. All plans, specifications, and associated documentation are ‘instruments of service’ and are the property of the RMA and may be requested for delivery at any time. The successful consultant’s project teams (prime and sub-

consultants) are required to follow the provisions of 49 CFR Part 15 and Part 1520 (Protection of Sensitive Security Information). The successful consultant(s) shall submit for approval a plan showing how such documents will be handled and controlled.

All work shall comply with the latest FEMA standards (most recent and applicable advisory standards issued) and all other pertinent and relevant codes and standards, including but not limited to the Building Codes, the latest adopted edition of the applicable National Fire Protection Association (“NFPA”) Standards and Guidelines, International Building Codes (IBC, IMC, IPC), National Electrical Code (“NEC”), National Building Code (“NBC”), CABO ANSI 117.1-2003, the National Flood Insurance Program, and all applicable ADA regulations & universal accessibility design codes.

2. PROJECT DETAILS

Services and the tangible work products to be delivered, and the tasks RMA has identified as necessary to meet those requirements. RMA reserves the right, however, to modify specific requirements, based on changed circumstances (such as a change in business or technical environments), the SOQ selection process, and contract negotiations with the consultant(s) selected for negotiations, and to do so with or without issuing a revised RFQ.

The assignments may involve work on public rights of way as well as private properties and nearby roads. The services will include, but not be limited to, providing strategic advice and assistance as required; assistance in developing appropriate determination of any construction procedures or risks that must be mitigated. Should a consultant be unwilling or incapable of performing any tasks due to internal corporate policies, the consultant MUST disclose those specific tasks or tasks likely to present an issue in their response.

3. TANGIBLE WORK PRODUCTS

Engineering services require at least the services listed below, including the specific tasks and work activities described. Consultant’s proposed scope of work should state in detail how it will carry out each task, including the personnel/job titles responsible for completing the task. For each service specified, the consultant should propose criteria to determine when the tasks comprising the service are satisfactorily completed. Consultant may propose additional or revised tasks and activities but should explain why each is necessary to achieve the project objectives.

The consultant shall propose a project team consisting of members of its staff and any subconsultants that, in total, have all the disciplines required to complete the project requirements. The proposed project team shall include engineers and/or design personnel and others with the pertinent expertise required to undertake and complete the work. In coordination with its subconsultants and project team, the consultant shall provide the services essential to completion of the project. These services shall include, but not be limited to:

A. Engineering Services

This category includes the basic engineering services normally required for remediation or improvement of public safety civil and hydrological improvement projects. It involves

services generally of a civil engineering and environmental assessment-based nature. **The area of riverway under consideration is distinctly highlighted in the attached Firmettes with Firmette numerical of lower value corresponding to more southernly riverway sections and whereas higher numerical number values correspond to more northernly sections.** In addition, there may be some services outside those normally considered basic that are discussed in paragraph 1.5. The basic services are usually conducted in, but are not limited to, the distinct and sequential phases summarized below:

i. Preliminary Phase

This phase involves those activities required for defining the scope of a project and establishing preliminary requirements. Some examples of activities within this phase of a project include, but are not limited to:

- a. Coordinating with the Sponsor on project scope requirements, finances, schedules, operational safety and phasing considerations, site access and other pertinent matters.
- b. As applicable, coordinating project with CalOES/FEMA personnel and other interested stakeholders to identify potential impacts to their operations.
- c. Planning, procuring, and/or preparing necessary surveys, geotechnical engineering investigations, field investigations, and architectural and engineering studies required for design considerations.
- d. Assessing and defined project scope based on budgetary constraints.
- e. Developing design schematics, sketches, environmental and aesthetic considerations, project recommendations, and preliminary layouts and cost estimates.
- f. Preparing project design criteria and other bridging documents commonly used for alternative project delivery methods such as design-build contracting.
- g. Outlining and Performing Benefit Cost Analysis measures using the FEMA BCA Toolkit 6.0 (or applicable version in effect at the time of work) for the purpose of establishing a lower bound of performance and continually evaluating proposed solutions.
- h. Collecting engineering data and undertaking field investigations; performing geotechnical engineering studies; and performing engineering, and special environmental studies.

ii. Design Phase

- a. Conducting and attending meetings and design conferences to obtain information and to coordinate or resolve design matters.
- b. Preparing necessary engineering reports and recommendations.
- c. Preparing detailed plans and specifications up to a 30% design state and subsequently compiling review comments.
- d. Preparing detailed plans and specifications up to a 60% design state, cost estimates, and design/construction schedules.
- e. Preparing Construction Safety and Phasing Plan (CSPP)

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- f. Printing and providing necessary copies of engineering drawings and contract specifications.

B. Environmental Planning Services

This category includes studies under the broad headings of hydrological improvement, building and life protection as well as master planning and environmental assessments and related studies. These studies include, but are not limited to, the following activities:

- i. Participation in public information and community involvement programs and/or public hearings relating to hydrological improvement development and planning projects.
- ii. Preparing and or assisting in the development of National Environmental Policy Act (NEPA) environmental documentation, and other studies in accordance with relevant federal guidance.
- iii. Preparing and or assisting in the California Environmental Quality Act (CEQA) environmental documentation, and other studies in accordance
- iv. Reviewing all environmental permitting requirements and preparing
- v. GIS data collection, entry, and analysis and other electronic graphical/mapping efforts.

The County has the ability to exercise some duties related to the preparation of environmental documents as they relate to some NEPA and CEQA elements, however the selected consultant(s) will be negotiated with and a scope of work agreed upon so that these duties are appropriately carried out

IV. SELECTION CRITERIA AND PROCEDURE

It is the ultimate intent of RMA to obtain environmental planning and engineering services by selecting a submittal that best addresses the required project and design outcome objectives.

RMA, upon review of all submittals provided, will exercise selective discretion, based on evaluative scoring (given below as “CRITERIA”) in selecting the consultant(s) whom appear capable of executing the project in the fashion desired.

CRITERIA	MAXIMUM POINTS
1 Experience with similar projects	30
2 Understanding of the work to be performed and project approach	20
3 Quality of staff and demonstrated technical ability	20
4 Capability of developing innovative solutions	10
5 Financial responsibility and availability	15
6 Overall impression and responsiveness	5
Total	100

Notification of Consultant Rankings

Notification of consultant rankings will be issued by phone, electronic mail and by letter and will be dated, no later than July 1, 2025.

Cost Proposals and Final Scope of Work

Fee and Final Scope Negotiation

The most qualified consultant will be invited to enter into fee and final scope negotiations with the County. The consultant will be invited to attend a meeting with County staff to review the project and ensure that all parties have a complete understanding of the work required. The County will provide all available material related to the project to the consultant, who will provide the County with a written, detailed fee and final scope of work proposal.

If a negotiated agreement cannot be reached with the first selected consultant or the consultant is not responsive or timely in responding prior to the award, the County retains the right to end negotiations and continue the selection process with the next highest ranked consultant that submitted a SOQ. This process will continue until a satisfactory fee and final scope negotiation is completed.

A formal notice to proceed to the selected consultant will occur after all required documentation (insurance, applicable licenses etc.) are submitted and once a job number has been established with the County's Purchasing Department.

V. STATEMENT OF QUALIFICATIONS REQUIREMENTS AND SUBMITTAL

The following requirements are provided for standardizing the preparation and submission of SOQs by all consultants. The intent is to assist consultants in the preparation of their SOQs and to assist the County and qualifications evaluation committee by providing standards for comparison of consultants' SOQs and narrowing qualification requirements.

SOQs shall contain the following information in the order listed:

1. Introductory Letter (2 pages maximum *)

The introductory (or transmittal) letter shall be addressed to:

Mr. Reed Schenke, P.E.
Tulare County Resource Management Agency
5961 South Mooney Boulevard
Visalia, CA 93277

The letter shall include the consultant's contact name, mailing address, telephone number, facsimile number, and email address. Include the offices where work will be conducted by the consultant and listed sub-consultants.

* If the proposed deviations and modifications, with supporting reasons, are attached as an appendix to the proposal, the appendix will not count towards the page limit.

The letter shall state that the consultant and all sub-consultants shall comply with all local, state and federal requirements.

The consultant shall disclose any financial, business, or other relationship with the County that may have an impact upon the outcome of the contract or the construction project. The consultant shall also list all current clients who may have a financial interest in the outcome of this contract.

The letter shall also indicate any conflicts or non-acceptability of the terms and conditions of the County's proposed agreement, including all of the attachments to the agreement, see. Proposed deviations and modifications to the contract agreement shall be noted and supporting reasons provided. The County will not consider changes to the agreement once consultant selection has been completed. If necessary, the proposed deviations and modifications, along with the reasoning therefore, may be attached as an appendix to the SOQ.

The letter shall indicate that the consultant does not have a financial or business interest in the architectural or engineering design of this project and that Consultant will not enter into any financial or business relationship as a contractor or subcontractor for the construction of this project if selected to perform the services as outlined under this RFQ.

2. Statement of Qualifications and Experience (4 pages maximum) and List of Vital Personnel

Identify consultant's Project Manager, Project Staff, sub-consultants and other vital personnel. Describe the responsibilities of each and show the relationships on an Organizational Chart. Include previous project experience similar to the subject project (with special attention to regional projects), ability, and capacity for undertaking and performing the work. Identify the current availability of all vital personnel. The County must approve any changes in vital personnel and sub-consultants after the award of contract before any change can be made.

Provide project descriptions, contact names, current email addresses, and current telephone numbers for three (3) references of similar project experience that illustrates the quality and past performance of the project team, including a delivery record with reference to schedule and budget.

Provide a list of all vital personnel, including only each individual's name, company, project position, email address, phone number, and address; if any sub-consultant(s) are used a list of vital personnel containing the individual's name, company, project position, e-mail address, phone number and address. The County must approve any changes in vital personnel and sub-consultants after the award of contract before any change can be made. The List of Vital Personnel shall be formatted in such a manner that it can be included into and provided in an electronic file type compatible with Microsoft Word as described *Statement of Qualifications Submittal Delivery* section. The List of Vital Personnel shall be submitted in an appendix to the SOQ and does not count towards the page limit for this section. Resumes for these consultant's

vital personnel only may also be provided in an appendix to the SOQ. Resumes shall be limited to two pages per person and do not count towards the page limit for this section

3. Project Understanding (3 pages maximum)

Describe consultant's understanding of the project. Identify the possible and or recommended approach and procedure for accomplishing the project goals. Discuss potential hurdles and critical tasks applicable to the project. You may also describe how your team is best suited to address key issues.

4. Proposed Scope of Work

The proposed scope of work shall address the tasks identified in this RFQ. Other tasks, items of work or services which the consultant believes are applicable to the project may also be included. The Scope of Work shall include a schedule, tied to the date of the execution of the contract with the consultant which shows the anticipated completion times for each task. The scope of work shall be formatted in such a manner that it can be included into the County's standard contract and provided in a file type compatible with Microsoft Word.

Do not include any information regarding consultant fees or costs at this time.

Statement of Qualifications Submittal Delivery

All submittals, consisting of one (1) signed original, five (5) copies, and one (1) electronic copy (on a flash drive in PDF format) of the SOQ, one (1) electronic copy of the List of Vital Personnel (provided on the same flash drive in MS Word compatible format), one (1) electronic copy of the Scope of Work (provided on the same flash drive in MS Word compatible format).

Attn: Reed Schenke, P.E.
Tulare County Resource Management Agency
5961 South Mooney Boulevard
Visalia, CA 93277

SOQ packages must be received at the prescribed location no later than the date and time described in Section VI of this RFQ. SOQ packages received after the time and date specified will not be considered and will be returned unopened. Any SOQ received prior to the time and date specified above may be withdrawn or modified by written request of the proposer so long as the modified SOQ is received prior to the time and date specified as the deadline for SOQ submittals. SOQs and submittals that do not conform to the requirements, including page limits, will be rejected.

VI. ANTICIPATED SCHEDULE

Issue RFQ	April 15, 2025
Written Questions Due	May 15, 2025
SOQ Submittals Due	May 30, 2025
Initial Consultant Ranking	June 16, 2025
Contractual Agreement/Notice to Proceed	July 14, 2025

VII. ADDITIONAL INFORMATION

Project Funding

FEMA Hazard Mitigation Grant Program funding coupled with Prepare California Match Grant funds as well as Local Match Funds will be the funding sources for this project.

Financial Management and Accounting System Requirements

The consultant must have an adequate financial management and accounting system as required by 48 CFR § 16.301-3, 48 CFR Part 31, 24 CFR Part 570, and 24 CFR § 85.20 et seq. The County will not award a contract to a consultant that does not have an adequate financial management and accounting system.

Compensation under any contract resulting from this RFQ will be based on audited rates developed through a qualifying Tulare County or other government audit.

Levine Act

Prospective consultants are advised that the consultant selection process described in this RFQ, and any award of an agreement to provide the requested services, is subject to compliance by the selected Consultant with the requirements of the Levine Act after selection and prior to agreement award.

The Levine Act is found in California Government Code section 84308, a portion of the Political Reform Act of 1974 (Gov. Code, § 81000 et seq.). Generally, the Levine Act includes the following requirements:

A. County officer may not accept contribution after officer knows proceeding is pending

While the RFQ process and award of an agreement hereunder is pending, and for 12 months following the date an agreement is awarded, a County officer shall not accept, solicit, or direct a campaign contribution, to their own or any other campaign, of more than \$250 from a party to the process or agreement or a party's agent, or a participant or a participant's agent if the officer has reason to know that the participant has a financial interest in the process or agreement.

C. County officer may not participate after receiving contribution

A County officer shall not make, participate in making, or in any way use the officer's official position to influence a decision in the RFQ process or award of an agreement, if the officer has willfully or knowingly received a campaign contribution of more than \$250 within the preceding 12 months from a party to the process or agreement or a party's agent, or a participant or a participant's agent if the officer has reason to know that the participant has a financial interest in the process or agreement.

D. Party may not contribute to County officer while process or agreement award is pending

A party to the RFQ process or agreement award, or a participant in the process, or their agents, shall not make a campaign contribution of more than \$250 to a County officer while the process and agreement award are pending before the County, and for 12 months following the date the agreement is awarded.

E. Party must disclose contributions made to County officer within certain timeframe

A party to the RFQ process or agreement award shall disclose on the record, before an agreement is awarded, any campaign contribution of more than \$250 made to a County officer within the preceding 12 months by the party or the party's agent.

In accordance with the County's Administrative Regulation No. 49 implementing these terms, the selected Consultant will be required to sign and submit a **CAMPAIGN CONTRIBUTION DISCLOSURE FORM** to the County after selection and prior to award of the agreement by the Board of Supervisors.

The prospective Consultant is advised that should this RFQ result in a recommendation for award of a contract, then the contract will not be in force until it is approved and fully executed by the County, which will include approval by the Tulare County Board of Supervisors.

All products used or developed in the execution of any contract resulting from this RFQ will become public domain.

Other Information

This RFQ does not commit the County to award a contract, to pay any costs incurred in the preparation of a submittal for this request, or to procure or contract for services. The County reserves the right to accept or reject any or all submittals received as a result of this request, to negotiate with any qualified firm or to modify or cancel in part or in its entirety the RFQ if it is in the best interests of the County to do so.

The prospective consultant is advised that should this RFQ result in recommendation for award of a contract, the contract will not be in force until it is approved and fully executed by the County, which will include approval by the Resource Management Agency Director.

All products used or developed in the execution of any contract resulting from this RFQ will become public domain.

A sample of the proposed agreement is attached hereto as **Attachment B**. The Consultant shall adhere to the provisions of this agreement. The Consultant shall advise the County, in the proposal transmittal letter, of any provision which they cannot accept.

Contract award as a result of this RFQ will be made without discrimination based on race, color, religion, age, sex, or national origin.

This RFQ and relevant project documents are available at the County of Tulare website as noted elsewhere in this RFQ.

All questions relating to this RFQ must be addressed in writing to Grants and Resources Department, Tulare County RMA, 5961 South Mooney Boulevard, Visalia, CA 93277 or by email to ssabin@tularecounty.ca.gov with a CC to dengland@tularecounty.ca.gov received no later than the time specified in Section VI. Questions received after this time will not be answered. Questions and responses will be posted on the Resource Management Agency website noted elsewhere in this RFQ. It will be the proposer's responsibility to periodically review the website for addenda and responses to questions and to review any additional information that may be provided by the County.

VIII. DISCLAIMER

A. Where funds allocated to this project are not made available, withheld, or reduced by regional or local government entity, the County of Tulare is under no obligation to fund this project, including, but not limited to, any agreement that may be negotiated for consulting services which is the subject of this RFQ.

B. Any consulting firm selected must, as a condition of entering into any agreement with the County, comply with any requirements imposed upon the County by any state, regional or local public agency or entity, which has agreed to provide funding for this project including, but not limited to, any agreement or amendment that may be negotiated for professional consulting services which is the subject of this RFQ.

C. All costs incurred in the preparation and submission of proposals and related documentation will be borne by the consulting firm.

D. Selection of qualified consulting firms will be made on the basis of the proposals as submitted, although the County reserves the right to interview applicants as part of the selection process.

E. The County reserves the right to award the contract to the proposer who presents the qualifications which, in the judgment of the County, best accomplishes the desired results.

F. This RFQ does not constitute an offer of employment or to contract for services.

G. The County reserves the option to accept or reject any or all submittals, wholly or in part, received by reason of this request, and make an award, or no award, by reason of the County's judgment as to its best interests.

H. All documents submitted to the County in response to this RFQ will become the exclusive property of the County and may be returned to the proposer or kept by the County, at the sole discretion of the County.

I. All submittals shall remain firm for four (4) months, or 120 days following closing date for receipt of SOQs.

J. Any contract awarded pursuant to this RFQ will incorporate the requirements and specifications contained in this RFQ. All information presented in a consulting firm's submittals will be considered binding upon selection of the successful proposer, unless otherwise modified and agreed to by the County during subsequent negotiations.

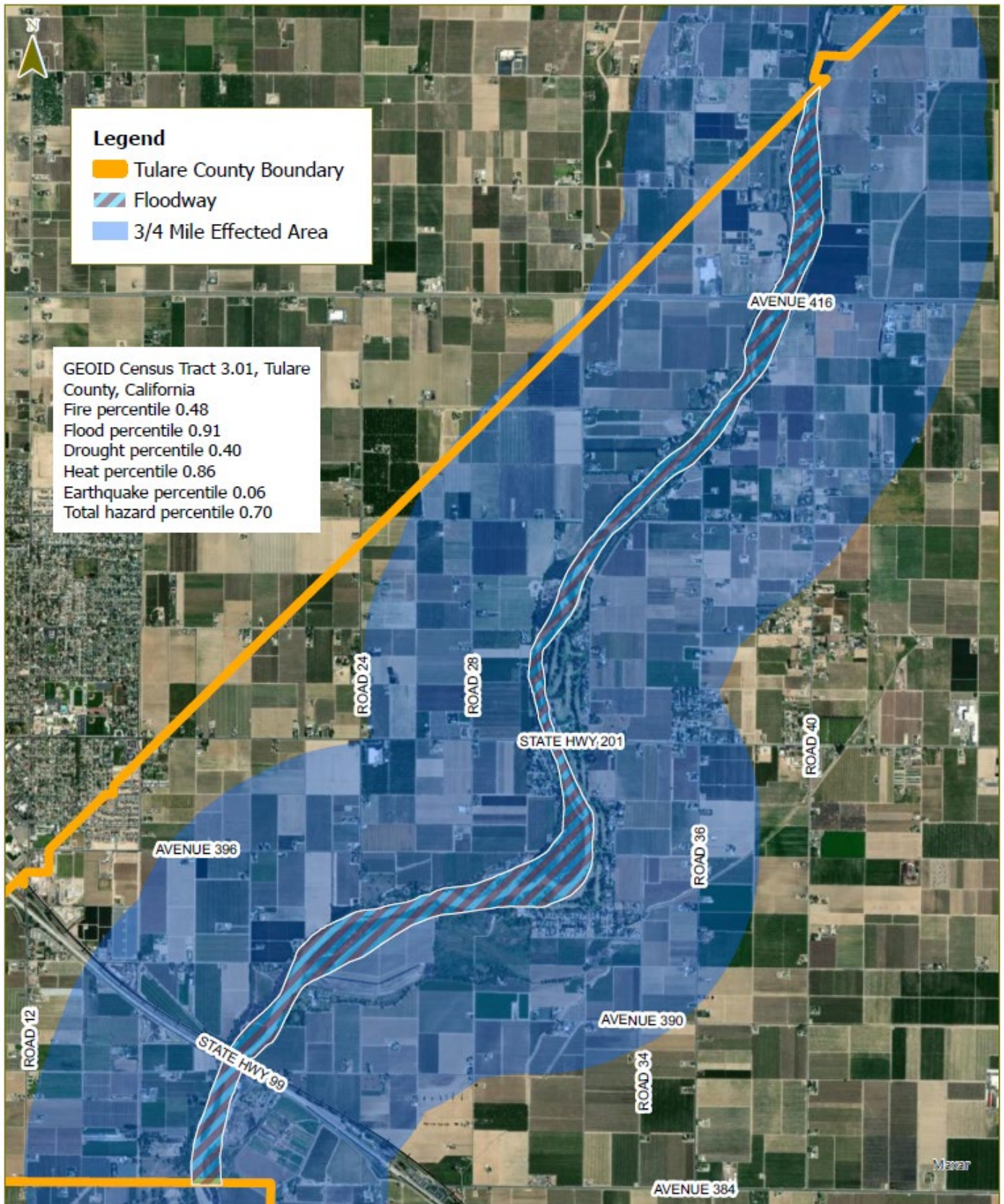
K. The selected consulting firm must be qualified to provide the requested services, able to satisfy all insurance requirements of the County, and be available to commence work according to the proposed schedule contained in this RFQ.

L. Under the provisions of the California Public Records Act (the "Act"), Government Code section 6252 et seq., all "public records" (as defined in the Act) of a local agency, such as the County, must be available for inspection and copying upon request of any person. Under the Act, the County may be obligated to provide a copy of any and all responses to this RFQ, if such requests are made after the contract is awarded. One exception to this required disclosure is information which fits within the definition of a confidential trade secret [Government Code section 6254(k)] or contains other technical, financial or other data whose public disclosure could cause injury to the proposer's competitive position. If any consulting firm believes that information contained in its response to this RFQ should be protected from disclosure, the consulting firm **MUST** specifically identify the pages of the response that contains the information by properly marking the applicable pages and inserting the following notice in the front of its response:

NOTICE: The data on pages [__] of this response identified by an asterisk (*) contain technical or financial information, which are trade secrets, or information for which disclosure would result in substantial injury to the consulting firm's competitive position. Proposer requests that such data be used only for evaluation of the response, but understands that the disclosure will be limited to the extent the County considers proper under law. If an agreement is entered into with the consulting firm, the County shall have the right to use or disclose the data as provided in the agreement, unless otherwise obligated by law.

The County will not honor any attempt by a consulting firm to designate its entire proposal as proprietary. If there is any dispute, lawsuit, claim or demand as to whether information within the response to the RFQ is protected from disclosure under the Act, consulting firm shall indemnify, defend, and hold harmless, the County arising out of such dispute, lawsuit, claim or demand.

ATTACHMENT A



ATTACHMENT B
AGREEMENT AND ATTACHMENTS

**COUNTY OF TULARE
PROFESSIONAL ENGINEERING SERVICES
FOR THE KINGS RIVER FLOOD MITIGATION PROJECT**

THIS AGREEMENT (“Agreement”) is entered into as of **[date]**, between the **COUNTY OF TULARE**, a political subdivision of the State of California (“COUNTY”), and **[vendor]**, [INSERT TYPE OF ENTITY, e.g. a California or other state corporation (see Instructions for more examples)] (“CONSULTANT”). COUNTY and CONSULTANT are each a “Party” and together are the “Parties” to this Agreement, which is made with reference to the following:

- A.** COUNTY has requested proposals for professional engineering and environmental support services for the Kings River Flood Mitigation Project to provide professional and comprehensive engineering and/or environmental planning services aimed at increasing the level of protection with the area of the County near the Kings River to limit impacts to residents, infrastructure, and businesses and to improve access to the area during and after high flow events along the river. These consultant services include but are not limited to hydraulics/hydrology study, environmental review and permitting including CEQA compliance, cost benefit analysis, select a preferred option and preparation of a full Hazard Mitigation Assistance grant application, and other tasks as described per the attached **Exhibit A** (“Scope of Work”), to the satisfaction of the COUNTY, State, and other jurisdictional agencies.
- B.** CONSULTANT’S response indicates that it possesses the professional qualifications, relevant experience and demonstrated competence to provide such services.

THE PARTIES AGREE AS FOLLOWS:

- 1. TERM:** This Agreement becomes effective as of **[date]** and expires at 11:59 PM on **[date]**, unless earlier terminated as provided below, or unless the Parties extend the term by a written amendment to this Agreement.
- 2. SERVICES:** CONSULTANT will provide professional engineering services, more particularly described in **Exhibit A**. All work performed and billed to the COUNTY by the CONSULTANT must be eligible for reimbursement in accordance with the funding agreement which is provided as Exhibit B, unless otherwise directed by the County in writing.
- 3. PAYMENT FOR SERVICES:** As consideration for the services provided by CONTRACTOR hereunder, COUNTY shall pay CONTRACTOR in accordance with the attached **Exhibits B, B-1, B-2, . . .**
- 4. GENERAL AGREEMENT TERMS AND CONDITIONS:** COUNTY’S “General Agreement Terms and Conditions” are hereby incorporated by reference and made a part of this Agreement as if fully set forth herein. COUNTY’S “General Agreement Terms and Conditions” can be viewed at:
<https://tularecountycounsel.org/main/contract-exhibits/general-terms-and-conditions-contract-template/>
- 23. HAZARD MITIGATION GRANT PROGRAM (HMGP) CONDITIONS:** CONSULTANT shall abide by all laws, rules, and regulations of the HMGP, including those in **Exhibit E**.
- 5. ADDITIONAL EXHIBITS:** CONSULTANT shall comply with the terms and conditions of the Exhibits listed below and identified with a checked box, which are by this reference made a part of this Agreement.

<input checked="" type="checkbox"/>	Exhibit A	Scope of Work
<input checked="" type="checkbox"/>	Exhibit B	Contractor’s Cost Proposal

<input checked="" type="checkbox"/>	Exhibit C	Professional Services Contracts – Insurance Requirements
<input checked="" type="checkbox"/>	Exhibit D	Additional Terms & Conditions for Federally-Funded Contracts
<input checked="" type="checkbox"/>	Exhibit E	Standard Mitigation Grant Program (HMGP) Conditions
<input checked="" type="checkbox"/>	Exhibit F	Byrd Anti-Lobbying Certification

7. NOTICES: (a) Except as may be otherwise required by law, any notice to be given must be written and must be either personally delivered, sent by facsimile transmission, or sent by first class mail, postage prepaid and addressed as follows:

COUNTY:

Tulare County Resource Management Agency
Attention: Reed Schenke, Director
5961 South Mooney Boulevard
Visalia, CA 93277

Phone No.: (559) 624-7000
Fax No.: (559) 615-3002

With a Copy to:

COUNTY ADMINISTRATIVE OFFICER
2800 W. Burrel Ave.
Visalia, CA 93291

Phone No.: (559) 636-5000
Fax No.: (559) 733-6318

CONSULTANT:

[INSERT CONSULTANT CONTACT INFO]

Phone No.: _____
Fax No.: _____

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail will be deemed received on the fifth calendar day after the date of mailing. Either Party may change the above address by giving written notice to the other Party under this section.

8. AUTHORITY: CONSULTANT represents and warrants to COUNTY that the individual(s) signing this Agreement on its behalf are duly authorized and have legal capacity to sign this Agreement and bind CONSULTANT to its terms. CONSULTANT acknowledges that COUNTY has relied upon this representation and warranty in entering into this Agreement.

9. ORDER OF PRECEDENCE: Notwithstanding anything to the contrary in this Agreement, including the COUNTY’S “General Agreement Terms and Conditions” incorporated by reference, and the attached Exhibits, because the Project may become at least partially federally funded, the provisions of the attached **Exhibit D and Exhibit E** shall prevail over any inconsistent provisions herein if that occurs.

10. COUNTERPARTS: The Parties may sign this Agreement in counterparts, each of which is an original and all of which taken together, form one single document. A signed copy or signed counterpart of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of a signed original or signed copy of this Agreement.

11. MANUAL OR ELECTRONIC SIGNATURES: The Parties may sign this Agreement by means of manual or electronic signatures. The Parties agree that the electronic signature of a Party, whether digital or encrypted, is intended to authenticate this Agreement and to have the same force and effect as a manual signature. For purposes of this Agreement, the term “electronic signature” means any electronic sound, symbol, or process attached to or logically associated with this Agreement and executed and adopted by a Party with the intent to sign this Agreement, including facsimile, portable document format, or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17), as it may be amended from time to time.

[THIS SPACE LEFT BLANK INTENTIONALLY; SIGNATURES FOLLOW ON NEXT PAGE]

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

[INSERT CONSULTANT'S FORMAL NAME]

Date: _____

By _____

Print Name _____

Title _____

Date: _____

By _____

Print Name _____

Title _____

[Pursuant to Corporations Code section 313, County policy requires that contracts with a **Corporation** be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a **Limited Liability Company** be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

COUNTY OF TULARE

Date: _____

By _____

Chair, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

Date: _____

By _____

Deputy Clerk

Approved as to Form
County Counsel

Date: _____

By _____

Deputy

Matter #

EXHIBIT A
SCOPE OF WORK

TO BE INSERTED LATER

EXHIBIT B
CONTRACTOR'S COST PROPOSAL

TO BE INSERTED LATER

**EXHIBIT C
PROFESSIONAL SERVICES CONTRACTS
INSURANCE REQUIREMENTS**

CONTRACTOR shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by the CONTRACTOR, his agents, representatives, employees, and subcontractors, if applicable.

A. Minimum Scope & Limits of Insurance

1. 1. Coverage at least as broad as Commercial General Liability, Insurance Services Office Commercial General Liability coverage occurrence form GC 00 01, with limits no less than \$2,000,000 per occurrence including products and completed operations, property damage, bodily injury, and personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04), or the general aggregate limit shall be twice the required occurrence limit.
 - 2.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability of \$1,000,000 per occurrence including any auto or, if the CONTRACTOR has no owned autos, hired and non-owned auto coverage. If an annual aggregate applies it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) insurance appropriate to the CONTRACTOR's profession, with limits of no less than \$2,000,000 per occurrence or claim, \$3,000,000 aggregate.

B. Specific Provisions of the Certificate

1. If the required insurance is written on a claims-made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work.
2. CONTRACTOR must submit endorsements to the General Liability reflecting the following provisions:
 - a. The COUNTY, its officers, agents, officials, employees and volunteers are to be covered as additional insureds as respects; liability arising out of work or operations performed by or on behalf of the CONTRACTOR including material, parts, or equipment furnished in connection with such work or operations.
 - b. For any claims related to this project, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, agents, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, agents, officials, employees or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

- c. *CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of CONTRACTOR may acquire against the county by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.*
- d. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled, except after written notice has been provided to the COUNTY.

3. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents, and subcontractors. CONTRACTOR waives all rights against the COUNTY and its officers, agents, officials, employees and volunteers for recovery of damages to the extent these damages are covered by the workers' compensation and employers' liability.

C. Deductibles and Self-Insured Retentions

Deductibles and Self-insured retentions must be declared and any deductible or self-insured retention that exceeds \$100,000 will be reviewed by the COUNTY Risk Manager for approval.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A-:VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.

E. Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the CONTRACTOR shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to the COUNTY. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.

WAIVERS:

I represent and attest that I am a person authorized to make representations on behalf of the CONTRACTOR, and represent the following:

(mark **X** if applicable)

Automobile Exemption: I certify that _____ does not own nor use vehicles in the _____ performance of the agreement for which this insurance requirement is attached.

Workers' Compensation Exemption: I certify that _____ is not required to carry workers' compensation coverage or has filed an exemption with the State of California as required by law.

I acknowledge and represent that we have met the insurance requirements listed above.

Print Name _____ Date: _____

Contractor Name _____

Signature _____

Rev. 12-18

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FEDERALLY-FUNDED AGREEMENTS. COUNTY will be paying for the goods or services to be provided under this Agreement, in whole, or in part, with Federal grant funds, so the following additional terms and conditions will apply to this Agreement, if applicable as noted:

(1) Equal Employment Opportunity (FOR CONSTRUCTION WORK) Except as otherwise provided under 41 CFR Part 60, if this Agreement meets the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3, then during the performance of this Agreement, the CONTRACTOR agrees as follows:(1) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.(2) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.(3) The CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONTRACTOR'S legal duty to furnish information.(4) The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers'

representatives of the CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.(5) The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.(6) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.(7) In the event of the CONTRACTOR'S noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, order of the Secretary of Labor, or as otherwise provided by law.(8) The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the COUNTY may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-contractor or vendor as a result of such direction by the COUNTY, then the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States. The COUNTY further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The COUNTY agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in

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obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The COUNTY further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the COUNTY agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the COUNTY under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the COUNTY; and refer the case to the Department of Justice for appropriate legal proceedings.

rules, regulations, and relevant orders of the Secretary of Labor, that it will reported violations to the Federal awarding agency.

The CONTRACTOR and each of its subcontractors shall include the equal opportunity clause in each of its subcontracts.

(2) Davis-Bacon Act, as amended (40 U.S.C. 3141–3148). (FOR CONSTRUCTION WORK). If this Agreement involves payment for construction services in excess of \$2,000, then the CONTRACTOR must comply with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the Davis-Bacon Act, the CONTRACTOR is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the U.S. Secretary of Labor. In addition, the CONTRACTOR is required to pay wages not less than once a week. The COUNTY must provide CONTRACTOR with a copy of the current prevailing wage determination issued by the U.S. Department of Labor with respect to the services to be provided under the subject Agreement. The CONTRACTOR'S execution of the subject Agreement constitutes the CONTRACTOR'S acceptance of the wage determination. The COUNTY must report all suspected or

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the event of any violations of these clauses, the prime contractor, and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

- (5) *Anti-retaliation.* It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause a person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:
- (i) Notifying any contractor of an conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
 - (ii) Filing any complaint, initiating, or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;
 - (iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
 - (iv) Informing any other person about their rights under CWHSSA or this part.

Further Compliance with the Contract Work Hours and Safety Standards Act: For contracts only subject to Contract Work Hours and Safety Standards Act and not subject to the other statutes in 29 CFR § 5.1, the following applies:

- (1) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
- (2) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such

representatives to interview employees during working hours on the job.

(5) Rights to Inventions Made Under a Contract or Agreement (FOR FUNDING AGREEMENTS FOR EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK). If the Federal award supporting payments for services under this Agreement meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the Agreement is with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," then the COUNTY and the CONTRACTOR recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(6) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended (FOR AGREEMENTS >\$150,000). If this Agreement involves payments for services in excess of \$150,000, then the CONTRACTOR must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(7) Debarment and Suspension (Executive Orders 12549 and 12689) (FOR ALL AGREEMENTS >\$25,000). By execution of this Agreement, CONTRACTOR certifies to the COUNTY that it is not a party listed on the government-wide exclusions list in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension," and is not debarred, suspended, or otherwise excluded from the award of a federally-supported contract under statutory or regulatory authority other than Executive Order 12549.

(8) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) (FOR ALL AGREEMENTS >\$100,000). If this Agreement involves payments for services in excess of \$100,000, then by execution of this Agreement, the CONTRACTOR certifies to the COUNTY that it will not and has not used Federally-appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant

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(3) Copeland “Anti- Kickback” Act (40 U.S.C. 3145). (FOR CONSTRUCTION WORK GREATER THAN \$2000). CONTRACTOR must comply with the Copeland “Anti- Kick- back” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). Under the Copeland “Anti- Kickback” Act, the CONTRACTOR and all subcontractors are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The COUNTY must report all suspected or reported violations to the Federal awarding agency.

(4) Compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).

(FOR AGREEMENTS >\$100,000 THAT USE MECHANICS OR LABORERS). If this Agreement involves payments for services in excess of \$100,000 that include the employment of mechanics or laborers, then the CONTRACTOR must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5):

- (1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages and interest from the date of underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$32 for each calendar day on which such individual was required

or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages-

(i) *Withholding Process.* The COUNTY shall upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor, so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this paragraph (b) on any other federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

(ii) *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

- (A) A contractor’s surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (B) A contracting agency for its procurement costs;
- (C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor’s bankruptcy estate;
- (D) A contractor’s assignee(s);
- (E) A contractor’s successor(s); or
- (F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

- (4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (5) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (5). In

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or any other award covered by 31 U.S.C.1352. The CONTRACTOR must also disclose to the COUNTY in writing any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

(9) Procurement of recovered materials (FOR AGREEMENTS >\$10,000 FOR CONTRACTORS WHO MUST COMPLY WITH SECTION 6002 OF THE SOLID WASTE DISPOSAL ACT). Pursuant to 2 CFR § 200.323, the COUNTY and the CONTRACTOR must comply with section 6002 of the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(10) Records Retention and Access (ALL AGREEMENTS). Pursuant to 2 CFR §§ 200.333 through 200.337, the following provisions regarding Records Retention and Access will apply to this Agreement:

(A) Retention requirements for records. CONTRACTOR must retain all financial records, supporting documents, statistical records, and all other of its records pertinent to this Agreement for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or COUNTY. The only exceptions to the 3 year limit are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, then the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the CONTRACTOR is notified in writing by the COUNTY or Federal awarding agency, cognizant agency for audit, oversight agency for audit, or

cognizant agency for indirect costs to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the COUNTY, or Federal awarding agency, the 3-year retention requirement is not applicable to the CONTRACTOR.

(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the CONTRACTOR'S fiscal year in which the program income is earned.

(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the COUNTY or the Federal Government to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the COUNTY or Federal Government for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(B) Methods for collection, transmission, and storage of information. In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New

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Default for Government Information, the Federal awarding agency and the CONTRACTOR should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or COUNTY must always provide or accept paper versions of Federal award-related information to and from the CONTRACTOR upon request. If paper copies are submitted, the Federal awarding agency or COUNTY must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

(C) Access to records.

(a) Records of CONTRACTOR. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the COUNTY, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the CONTRACTOR which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the CONTRACTOR'S personnel for the purpose of interview and discussion related to such documents.

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(b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the CONTRACTOR and the Federal awarding agency or COUNTY. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) Expiration of right of access. The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and COUNTY must not impose any other access requirements upon CONTRACTOR.

(11) Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (ALL AGREEMENTS WITH FUNDS AWARDED ON OR AFTER NOVEMBER 12, 2020) CONTRACTOR must comply with 2 CFR § 200.216, the prohibition of obligating or expending loan or grant funds to procure or obtain, enter into a contract to procure or obtain certain equipment, services or systems that uses “covered telecommunications equipment” as defined in CFR §200.216 (3), or services as a substantial or essential component of any system.

(12) Domestic Preferences For Procurement (ALL AGREEMENTS WITH FUNDS AWARDED ON OR AFTER NOVEMBER 12, 2020) Pursuant to 2 CFR § 200.322, CONTRACTOR shall, as appropriate and to the extent consistent with law, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(13) Use Of DHS Seal, Logo, And Flags. (ALL AGREEMENTS) The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The

contractor shall include this provision in any subcontracts.

(14) Compliance With Federal Law, Regulations and Executive Orders (ALL AGREEMENTS). This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives

(15) No Obligation by Federal Government. (ALL AGREEMENTS). The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

(16) Program Fraud and False or Fraudulent Statements or Related Acts. (ALL AGREEMENTS). The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.

(17) Affirmative Socioeconomic Steps. (ALL AGREEMENTS) If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

(18) License and Delivery of Works Subject to Copyright and Data Rights (ALL AGREEMENTS INVOLVING CREATION OF COPYRIGHTABLE MATERIAL) The Contractor grants to the COUNTY OF TULARE, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the COUNTY OF TULARE or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the COUNTY OF TULARE data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the COUNTY OF TULARE.

COUNTY OF TULARE
ADDITIONAL TERMS & CONDITIONS FOR FEDERALLY FUNDED CONTRACTS
For Awards Issued on or After November 12, 2020.
California Kings River AA Flood Mitigation Project
(Form revision approved September 2022)

(19) Payment for Services. This project may be partially funded with Federal funds and therefore requires full compliance with Title 2 of the Code of Federal Regulations, §200.218 through 200.326 AND the County Purchasing Ordinance.

(20) Buy Clean. COUNTY encourages the use of environmentally friendly construction practices in the performance of this agreement. In particular, COUNTY encourages that the performance of this agreement include considering the use of low carbon materials which has substantially lower levels of embodied greenhouse-gas emissions associated with all relevant stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products as demonstrated by their environmental product declaration.

EXHIBIT F
BYRD ANTI-LOBBYING CERTIFICATION

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING.

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Date

Name and Title of Contractor's Authorized Official