



Request for Proposal

For development of a

LOCAL ROADWAY SAFETY PLAN (LRSP)

For the City of Barstow, CA

City Project: ENG-2021-0401

Federal HSIP LRSP ID No. LRSPL-5298(035)

PROPOSALS DUE ON TUESDAY, JUNE 21, 2022, 4:00PM

Submit Proposal to:

City of Barstow
City Clerk's Office
220 E. Mountain View Street, Suite A
Barstow, CA 92311

Envelope(s) shall be sealed and marked;

“Local Roadway Safety Plan (LRSP)”

Inquiries about this RFP shall be directed in writing, via e-mail to:

Domingo D. Gonzales, Engineering Services Administrator

Email: dgonzales@barstowca.org

Telephone: (760) 255-5156

Fax: (760) 256-1750





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NOTICE OF INVITING PROPOSALS (ENG-2021-0401)
Local Roadway Safety Plan (LRSP)

NOTICE IS HEREBY GIVEN that Request for Proposals (RFP) for providing Local Roadway Safety Plan (LRSP) will be received at the office of the City Clerk, 220 East Mountain View Street, Barstow California, until 4:00 p.m. (local) on June 21, 2022.

DESCRIPTION OF WORK: Each RFP shall specify each and every item as set forth in the attached specifications. Any and all exceptions must be clearly stated in the proposal. Failure to set forth any item in the specifications shall be grounds for rejection.

OBTAINING RFP DOCUMENTS AND REGISTRATION AS PROPOSER:

The RFP documents may be downloaded via the internet at www.barstowca.org (go to Business, Bid Opportunities/Request for Proposals). If you are interested in submitting a proposal, it is **IMPERATIVE** that you contact the Engineering Services Division by email dgonzales@barstowca.org to **Officially Register as a Proposer for this specific project (Register form)** with your company name, address, phone, fax, contact person and email address. **Register by June 7, 2022, 4:00 p.m.** Failure to officially register may result may result in not receiving addenda to the RFP. Failure to acknowledge addenda to the RFP may render your proposal as non-responsive.

PROPOSALS:

1. Costs for preparation of RFPs will be borne by the consultant.
2. Proposals shall be submitted in an 8 ½ x 11 format including any City provided forms.
3. All Proposals must be received by mail, recognized carrier, or hand delivered no later than 4:00 p.m. on **June 21, 2022**. Late RFPs will not be considered
4. Submit one original with original signatures and three copies of the written proposal.
5. This request does not constitute an offer of employment or contract for services.
6. The City reserves the option to reject any or all RFPs, wholly or in part, and to waive any informalities received by reason of this request.
7. The City reserves the option to retain all RFPs, whether selected or rejected.
8. The City reserves the right to select the Consultant who presents the RFPs, which in the judgment of the City, best accomplishes the desired results.
9. The Selection Committee may deem it necessary to interview applicants. The City retains the right to interview applicants as part of the selection process.

If you have any inquiries about the proposal or process, please contact:

Domingo D. Gonzales
Engineering Services Division.
dgonzales@barstowca.org
(760) 255-5156

PROPOSALS TO REMAIN OPEN: The Proposer shall guarantee that all contents of their proposal shall be valid for a period of 90 calendar days from the due date of the proposal. The receiving time in the City Clerk's office will be the governing time for acceptability of Proposal. Telegraphic, electronic, and telephonic proposals will not be accepted. Late proposals will be returned unopened.

I. GENERAL INFORMATION

Introduction

Federal regulations require each State has a Strategic Highway Safety Plan (SHSP). An SHSP is a statewide data-driven traffic safety plan that coordinates the efforts of a wide range of organizations to reduce traffic accident fatalities and serious injuries on all public roads. In coordination with federal, state, local and private sector safety stakeholders, the SHSP establishes goals, objectives, and emphasis (or challenge) areas. The SHSP address the 4Es of traffic safety: Engineering, Enforcement, Education, and Emergency Services.

While the SHSP is used as a statewide approach for improving roadway safety, A Local Road Safety Plan (LRSP) can be a means for providing local and rural road owners with an opportunity to address unique highway safety needs in their jurisdictions while contributing to the success of the SHSP. The process of preparing an LRSP creates a framework to systematically identify and analyze safety problems and recommend safety improvements. Preparing an LRSP facilitates the development of local agency partnerships and collaboration, resulting in a prioritized list of improvements and actions that can demonstrate a defined need and contribute to the statewide plan. The LRSP offers a proactive approach to addressing safety needs and demonstrates agency responsiveness to safety challenges.

An LRSP provides a framework for organizing stakeholders to identify, analyze, and prioritize roadway safety improvements on local roads. The process of developing an LRSP can be tailored to local protocols, needs, and issues. For more information regarding the LRSP, please visit the HSIP program's LRSP/SSARP web page.

In the future HSIP Calls-for-Projects, an LRSP (or its equivalent such as Systemic Safety Analysis Report (SSAR) or Vision Zero Action Plan) will be preferred or required for an agency to be eligible to apply for federal HSIP funds:

HSIP Cycle 11 (around April 2022) and on: an LRSP (or its equivalent) will be required for an agency to be eligible to apply.

The City is hereby soliciting proposals from qualified consulting firms for Development of a Local Roadway Safety Plan (PROJECT)/Vision Zero for the City of Barstow. This plan shall meet criteria for applying for HSIP grants and Safe Streets and Roads for All (SS4A) grant Program.

Purpose and Goals

Development of a Local Roadway Safety Plan (LRSP) to address local roadway safety issues, using a data-driven strategic approach consistent with the state's Strategic Highway Safety Plan (SHSP), that will identify, analyze and prioritize local roadway safety improvements to help reduce the incidents of Fatal and Severe Injury Collisions on the City's Local Roadway System, resulting in a prioritized list of improvements and actions that can demonstrate a defined need, and contribute to the statewide plan with a focus on roadway performance in the City of Barstow.

Specific services solicited by this request include all necessary efforts to provide overall project management; establish leadership; develop and prepare the Local Roadway Safety Plan; and provide a complete PROJECT. Management, scheduling, and administration services to be provided include oversight of all activities undertaken by outside entities in connection with the PROJECT, and enforcement of the terms of all agreement provisions associated with the project.

Budget: \$80,000

The successful consultant will be required to enter into a Professional Services Agreement with the City of Barstow. A sample of the Professional Services Agreement referenced as attachment hereto:

Project Location

The City of Barstow is located in the Inland Empire North Region of San Bernardino County and is midway between Los Angeles and Las Vegas. Barstow is the entrance to the Mojave National Preserve and is home to the U.S. Army National Training Center at Fort Irwin; Marine Corps Logistics Base, Barstow; NASA's Goldstone Deep Space Network, Veterans Home of California, Barstow, and BNSF Classification Yard. Interstates 15 and 40, and highways 58 and 247 all converge in Barstow making the city a major transportation corridor with more than 60 million people in 19 million vehicles traveling through Barstow each year. The City is home to an Amtrak depot at Historic Harvey House.

Background

The PROJECT is critical in providing traffic safety analysis to reduce the number of fatal and severe injury collisions within the CITY as is necessary for continued successful application for grant funding needed to improve local roadway safety.

Beginning with the HSIP Cycle 11 call for projects, anticipated in April 2022, an agency must have a LRSP to be eligible for application, so time is of the essence in completion of the PROJECT.

II. PROJECT SCHEDULE

| Task | Milestone/Task | Estimated Start Date | Days | Completion Date |
|------|-------------------------------|----------------------|------|-----------------|
| | Awarded | 7/18/2022 | 0 | 7/18/2022 |
| | Authorization to Proceed | 7/18/2022 | 7 | 7/25/2022 |
| | Kick-Off Meeting | 8/8/2022 | | 8/8/2022 |
| 1. | Develop Framework | 8/8/2022 | 60 | 10/07/2022 |
| 2. | Identify Safety Issues | 8/8/2022 | 60 | 10/07/2022 |
| 3. | Analyze Safety Data | 10/07/2022 | 60 | 12/6/2022 |
| 4. | Select Countermeasures | 12/6/2022 | 44 | 01/19/2023 |
| 5. | Calculate Benefit/Cost Ratio | 01/19/2022 | 46 | 03/06/2023 |
| 6. | Develop Project Priority List | 03/06/2023 | 45 | 04/20/2023 |
| 7. | Identify Funding | 04/20/2023 | 46 | 06/05/2023 |
| 8. | Include Evaluation Matrix | 06/05/2023 | 45 | 07/20/2023 |
| 9. | Finalize Project | 07/20/2023 | 28 | 08/17/2023 |
| 10. | Project Close Out | 8/17/2023 | 56 | 10/12/2023 |

III. SCOPE OF SERVICES

General

The successful consultant will provide the necessary services to provide the City with a final LRSP in accordance with provisions within this RFP. The City is requesting the preparation of a LRSP that identifies emphasis areas and recommends various solutions to reduce collisions and improve roadway safety. Additionally, the consultant shall develop an easy-to-use, comprehensive structure of procedures, and analysis tools needed to identify location with roadway safety issues and the appropriate countermeasures. The system should be designed for all levels of practitioner, including novice, with the objection of positioning the City to submit strong application for future calls for projects and funding opportunities.

This LRSP will evaluate emphasis areas in the City and may include, but is not limited to, speed and traffic analysis, signage, collision and roadway analysis, and a review of the existing safety measures. The LRSP will present these findings and provide recommendations for improvements.

The project objectives are the following:

- Identify focus crash types and risk factors, particularly along main City corridors and areas of high-volume foot traffic.
- Screening and prioritizing candidate locations.
- Selecting potential low, medium, and high-cost countermeasures to mitigate safety issues at intersections, interchange, and on-road segments.
- Prioritizing projects per benefit-cost ratios using the TIMS B/C Calculation tool or approved equal, and

- Identifying an implementation plan starting with the low-cost measures that can be implemented in the near future, along with potential funding sources for involved medium- and high-cost improvement projects.

These services will be needed during the course of the work from date of award of the project through completion. Consultant shall provide a dedicated full-time person or persons as needed to provide Engineering Services for this specific project, which is funded with state funds. The Engineer/Traffic Engineer in charge of the project shall be a licensed Civil Engineer/Traffic Engineer in the state of California.

The successful consultant will schedule and conduct a kick-off meeting for the project, coordinating with the City. The Consultant will prepare an agenda to be reviewed and approved by the City. The meeting will address City expectations, consultant information requirements, project approach, and project timeline at minimum.

The following list includes a brief description of the major tasks the selected Consultant shall perform. This list is not intended to be all-inclusive or limiting.

Task 1 – Project Management.

- 1) Consultant shall schedule and conduct a kick-off meeting with City staff to review the project in detail, report requirements, review project schedule, and present a list of needed documents/data to assist in successful completion of the project.
- 2) Consultant shall maintain continuous communication with the engineering and city staff, including meetings to review progress of the LRSP. The Consultant will provide agendas for each project status meeting including items for discussion and prepare/submit meeting minutes for approval.
- 3) Consultant shall prepare monthly progress reports and supporting data. The progress report shall include accomplished tasks for the month, anticipated progress for the next month, pending issues, and schedule of completion of target dates.
- 4) Consultant shall have a quality control plan in effect during the entire course of the project.

Deliverables

- Meeting Agendas and Minutes
- Monthly Progress Reports including supporting data
- Quality Control Plan

Task 2 – Document Review and Information Collection

The Consultant shall review pertinent documents applicable to the LRSP. These key documents will help to establish goals for improved safety accommodations for motorists, pedestrians and bicyclist. In addition, work performed by the Consultant shall be based on, but not limited to, procedures, guidelines, and standards contained in the documents below:

- a. The latest City of Barstow General Plan
- b. California Systematic Safety Analysis Report Program Guidelines
- c. California Strategic Highway Safety Plan (SHSP)
- d. Caltrans Complete Streets Implementation Action Plan 2.0
- e. Caltrans Main Street, California, A Guide to Improving Community and Transportation Vitality
- f. Caltrans Complete Intersections
- g. Caltrans Local Roadway Safety Manual
- h. Caltrans Local Assistance Procedures Manual (LAPM) with current amendments
- i. Caltrans Local Assistance Programs Procedures (LPP), with current amendments

- j. Caltrans Standard Plans, current edition
- k. National Association of County Engineers (NACE) – Template for Local Roadway Safety Plan
- l. FHWA Local and Rural Road Safety Plans: A Manual for Local and Rural Road
- m. FHWA Local Road Safety Plan Do-It yourself Website
- n. U.S. Department of Transportation Systematic Safety Project Selection Tool
- o. California Manual of Uniform Traffic Control Devices
- p. Standard Plan for Public Works Construction
- q. City of Barstow Engineering Standard Plans
- r. California Vehicle Code
- s. Safe System Approach
- t. Complete Streets



Deliverables

- Understanding of Standards and Guidelines
- Provide bases to develop the City’s structure.

Task 3 – Data Collection

This task involves the collection and organization of data for the LRSP. The primary data elements of interest are collisions involving pedestrians, bicyclist, and roadway data. The Consultant shall Identify safety Issues by proactively analyzing the City’s roadway networks using a wide range of data sources to get the overall picture of the safety needs, including, but not limited to, state and local databases (SWITRS), SafeTREC’s Traffic Information Management System (TIMS), law enforcement crash reports, citations, and field assessments, as well as observational information from road maintenance crews, law enforcement, first responders and citizen public engagement of safety concerns, to help identify High Crash Concentration Locations (HCCL’s) and their causation, including, but not limited to, the lack of basic signing, pavement markings, alignment, and traffic control devices.

Below are the expectations related to this task:

- 1) The Consultant will collect the latest available 5-year collision history. This data will be utilized to develop the LRSP. Five years of collision data is required to adequately investigate before identifying potential countermeasures. Collision data shall be collected through the Transportation Injury Mapping System (TIMS). The Consultant may need to work with the City’s Engineering staff to access additional collision data.
- 2) Consultant will conduct a field review to gain an understanding of the City’s roadway network and collect various roadway characteristics. Elements to be collected include, but are not limited to: roadway classification, types of users, travel patterns, roadway width, speed (posted and actual), traffic volumes, curves, striping, signs and traffic control types. Review of digital imagery such as arterial photography and/or “street view” may be used to supplement, but not replace, field review. The consultant will work with the City’s Engineering staff as some of the previous elements will be provided by Engineering. The information collected is necessary to determine priorities and identify where countermeasures can be applied appropriately

- 3) The Consultant will conduct three public engagement meetings and collect safety concerns from the community.

Deliverables

- Traffic Counts
- Speed Counts
- Roadway classification
- Traffic patterns
- Community Engagement (Meetings, Surveys, GIS applications)

Task 4 – Collision and Roadway Analysis

- 1) Collision data will be reviewed, interpreted, and analyzed to identify predominant collision types and identify roadway features that may have contributed to those collisions.
- 2) Roadway characteristics will be reviewed, interpreted, and analyzed to determine risk factors associated with nominal safety design. Based upon the issues identified, a list of potential high-risk roadway characteristics will be developed through the systematic safety approach.
- 3) Analyze Safety Data using data collected, from previously discussed sources, and make informed decisions on the type, deployment levels, and locations for safety countermeasures needed across the City's entire roadway network.
- 4) Graphical Information System (GIS) maps and tables shall be developed illustrating collision severity and location of collisions.

Deliverables

- ArcGIS shapefiles of the mapped collisions and severity annotations.
- Microsoft Excel tables (database) showing the collision data.

Task 5- Countermeasure Selection

- 1) Base on the types of collisions identified, roadway design, and conditions, Consultant will propose appropriate countermeasures. The list shall include all possible treatments, including driver behavior modification activities, potential collision reductions, and anticipated costs. Additionally, issues which may prevent implementation shall be listed.
- 2) Select Countermeasures, and Crash Modification Factors (CMF's) and Crash Reduction Factors (CRF's) directly associated with the countermeasures, to mitigate problems identified in 3 and 4 above.
- 3) Countermeasures shall be proposed for: signalized intersections, non-signalized intersections, and roadway segments (for arterial and residential streets). Use of the Crash Reduction Factors provided in the Local Roadway Safety Manual for improving safety performance is encouraged. Consultant will share proposed countermeasures with City staff for input and review.
- 4) Calculate Benefit/Cost Ratio of alternative mitigation countermeasures selected above to define and compare cost effectiveness and prioritize the projects that will compete well for grant funding.

- 5) Consultant will develop a prioritized list of countermeasures to serve as the basis for projects developed in the final LRSP. The methodology to determine a prioritized list shall be documented and included in the final LRSP.

Deliverables

- List (Microsoft Excel Format) of proposed countermeasures as related to types of collisions, data, and prioritized list. List should also include the Benefit /Cost Ratio values.
- Draft of methodology used to determine the Prioritized list in Microsoft Word.

Task 6 – Develop Safety Projects/ Complete Streets Concepts

- 1) The Consultant shall develop a recommended list of safety projects using the list of countermeasures developed in Task 5
- 2) The recommended projects shall take into consideration fiscal constraints and limitations associated with acceptable deployment within the City roadway network.
- 3) A cost/benefit ratio analysis shall be performed for these projects by using the most current Highway Safety Improvement Program (HSIP) calculation methodology.
- 4) Develop a prioritized list of safety projects documenting the methodology used.
- 5) Provide a detailed summary of prioritized safety projects. The summary will include, but is not limited to, for each project: description of projects, location(s), vicinity map, type of safety improvement(s), estimated cost, and cost/benefit ratio.
- 6) Analysis the City and provide Complete Streets concepts and methodology.

Deliverables

- Prioritized list of safety projects and methodology.
- Detailed Summary of prioritized safety projects.
- Provide Complete Streets Concepts and details.
- Cost estimates, mapping, and cost/benefit ratio of proposed safety improvements

Task 7 – Final Local Roadway Safety Plan (LRSP/ Safe Streets for All (SS4A)

- 1) The final LRSP will summarize the results of the previous tasks. The Consultant shall submit five (5) bound hard copies and an electronic copy of the final LRSP. The LRSP shall include data collection and analysis process, roadway and collision characteristics, countermeasures being applied, benefit summary, cost/benefit ratio calculations, and a final list of recommended priority safety projects.
- 2) The Final Local Roadway Safety Plan must include the following sections:
 - a. Executive Summary
 - b. Engineer’s Seal
 - c. Introduction
 - d. Statement of Protection of Data from Discovery and Admissions
 - e. Vision and Goals
 - f. Safety Data Utilized (Collisions, Volumes, Roadway, etc.)
 - g. Data Analysis Techniques and Results
 - h. Highest Occurring Collision Types
 - i. High-Risk Corridors and Intersections (Collision History and Roadway Characteristics)

- j. Countermeasures Identified to Address the Safety Issues
- k. Viable Project Scopes and Prioritized List of Safety Projects
- l. Identify Funding to construct improvement in the priority project list. Funding sources may include various federal and state grant programs such as, but not limited to, Highway Safety Improvement Program (HSIP), Active Transportation Program (ATP), Safe Streets for All (SS4A)
- m. An evaluation Matrix/toolbox to allow for pre and post evaluation of project improvements using the developed LRSP techniques in the Final Plan.
- n. Attachments and Supporting Documentation

Task 7 – Deliverables

- Three (3) bound hard copies of the Final Local Roadway Safety Plan (LRSP)
- Electronic Files of the Final Local Roadway Safety Plan in Microsoft Word and PDF Format
- Developed toolbox
- GIS data and templates

IV. CONSULTANT SELECTION PROCESS

Each proposal will be reviewed to ensure that the Consultant submitted a transmittal/cover letter, narrative proposal that is responsive to the City’s requirements as set forth herein, and a cost proposal. Failure to meet these requirements may be cause for rejection of a proposal. An evaluation committee will review all proposals. The evaluation committee will evaluate proposals on various qualifications, and will be scored based on the following table:

| CRITERIA | MAXIMUM POINTS |
|---|----------------|
| Understanding of work to be performed | 25 |
| Experience with similar types of work | 20 |
| Quality of staff for work to be completed | 15 |
| Capability of developing innovative or advanced techniques | 10 |
| Familiarity with state and federal procedures (especially HSIP) | 10 |
| Financial Responsibility | 10 |
| Demonstrated Technical Ability | 10 |
| TOTAL: | 100 |

During the evaluation period, the City may interview some or all of the proposing consultants. The City will establish a specific date to conduct interviews, and all prospective consultant(s) will be asked to keep this date available. No other interview dates will be provided, therefore, if a Consultant(s) is unable to attend the interview on this date its proposal may be eliminated from further discussion. At the conclusion of the evaluation process, the evaluation committee will make a recommendation to the City Council.

Statement of Intent

The Consultant shall perform all professional and technical traffic engineering necessary to develop a Local Roadway Safety Plan (LRSP) in the City of Barstow.

The Consultant shall demonstrate, through this RFP, successfully traffic engineering including coordination and preparation of, but not limited to:

1. Traffic Engineering
2. Speed Surveys
3. Data Collection
4. Accident Analysis
5. Reports

V. PROPOSAL

Format and Content of the Request for Proposals (RFP)

To respond to the Request for Proposals (RFP), submit 1 original three copies on or before the submission deadline. The RFP must be signed by a person authorized to bind the proposing firm to the representations, commitments, and statements contained in the RFP. The RFP must contain the following information and documents:

- A. Cover letter (1 pages maximum).
Provide an executive summary emphasizing the strong points of the project team, qualifications and experience. The cover letter shall be signed by a person with the official authority to bind the Consultant. The cover letter shall include the name, address, telephone number, title, and signature of the Consultant's contact person for this proposal.
- B. Consultant Overview and General Qualifications
Provide a summary of the Consultant's qualifications demonstrating your expertise, understanding and ability to accomplish the City's primary objectives; and, general information about the Consultant to include location of office(s), years in business and areas of expertise. Provide a brief description of three (3) cities/projects which involved a similar scope of services.
- C. Staffing/Sub Consultant –

An organizational chart identifying: 1) the project manager for the work, each key person who would be assigned to carry out the work; 2) the role each person will play in performing the work; and 3) a description of the experience and qualifications of such manager and key persons.

Identify key staff and include a description of their abilities, qualifications and experience. Attach resumes of key staff to be assigned to this project. Include a proposed project management structure and organizational chart. Identify any portion of work that would be subcontracted. Include Consultant qualifications (brief) and key personnel, telephone number and contact person for all sub-consultants. The City reserves the right to approve or reject all Consultants, internal staff performing consulting services, or sub-Consultants proposed by the Consultant.

D. Approach and Methodology

A clear concise statement of the firm's understanding of the nature and the extent of the services required and a specific outline to demonstrate how personnel would be organized to handle these services. (3 pages maximum)

E. References

Consultant shall provide a list of references for the Consultant and any sub-Consultants, including the names, addresses and telephone numbers of recent clients for which Consultant has done similar work. Include a list of specific projects associated with each reference, date work was performed, cost and key personnel involved. List three (3) to five (5) distinct references.

F. Cost Proposal

Consultants shall submit a fee proposal in a separate and sealed envelope clearly labeled “City of Azusa – Local Roadway Safety Plan Fee Proposal”. The City will negotiate with the top-ranked consultant in compliance with all applicable federal, state, and local guidelines. Fee proposal shall include all tasks required to perform the work with a maximum not-to-exceed fee for each task and a grand total not-to-exceed fee. The fee proposal must contain a task and fee breakdown of all components of cost, including labor base rate, overhead, and all other direct and indirect costs. The fee proposal must match the scope of services, in format, as presented within the RFP.

VI. PROPOSAL SUBMISSION

A. Submission of Proposal

Consultant shall submit three (3) copies of their Proposal to the City. Proposals shall be received by the City Clerk’s Office no later than 4:00 p.m. on Tuesday, June 21, 2022 at the following address:

City of Barstow
Attn: City Clerk
220 E. Mountain View Street, Suite A
Barstow, CA 92311
Re: Local Roadway Safety Plan

Late submittals will be rejected and not returned

B. Inquiries

Inquiries: Proposers, their representatives, agents or anyone else acting on their behalf, are specifically directed NOT to contact any city employee, commission member, committee member, council member, or other agency employee or associate for any purpose related to this RFP other than as directed below. Contact with anyone other than as directed below may be cause for rejection of a proposal.

ANY questions, technical or otherwise, pertaining to this Request for Proposal **must be submitted IN WRITING and directed ONLY to:**

Domingo D. Gonzales
City of Barstow
Engineering Services Division
220 East Mountain View Street
Barstow, CA 92311
dgonzales@barstowca.org

Interpretations or clarification considered necessary in response to such questions will be resolve by the issuance of a Formal Addenda to the RFP. The deadline for all questions is 4:00 P.M., Local Time, June

7, 2022. Questions received after this date and time may not be answered. Only questions that have been resolved by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal or contractual effect.

C. Required Attachments

- a. Caltrans Exhibit 10-O1 Consultant Proposal DBE Commitment
- b. Caltrans Exhibit 10-Q Disclosure of Lobbying Activities
- c. Copy of the Register Form
- d. Acknowledgement Receipt of Addendum(s)
- e. Caltrans Exhibit 10-H Sample Cost Proposal (Separate sealed envelope)

D. Schedule

A contract is intended to be issued as soon as possible. A tentative schedule of the events follows:

| | |
|--------------------------------------|--------------------------|
| Request for Proposals released | May 10, 2022 |
| Inquiries /Question Due | June 7, 2022 |
| Register Firm | June 7, 2022 |
| Proposals Due | June 21, 2022(4:00 p.m.) |
| Notice of Shortlist | June 28, 2022 |
| Consultant Interviews (if necessary) | July 6, 2022 |
| Contract Award | July 18, 2022 |
| Notice of Contract Award | July 20, 2022 |

E. Accounting

The successful consultant shall invoice for work performed beginning on the 1st day and ending on the last day of each month. The consultant may submit month invoice by the 15th day of the month. Invoices should include a brief description of work performed. For auditing purposes, the CITY’s Fiscal Year begins on July 1 and ends on June 30. The consultant shall submit year end invoices through June 30 no later than July 15 of each year of the contract.

VII. GENERAL CONDITIONS

1. The CITY shall not, in any event, be liable for any pre-contractual expenses incurred by the consultant in:
 - Preparing the proposal and submitting the proposal to the CITY
 - Preparing and participating in CITY interview process
 - Negotiating with CITY related to this proposal; and
 - Any other expenses incurred by consultant prior to an executed agreement

2. Any proposal received prior to the date and time specified above for receipt of proposals may be withdrawn for modification by written request of the proposer. To be considered, however, the modified proposal must be received by the time and date specified in this RFP.
3. Proposals received within the prescribed deadline become the property of the CITY and all rights to the contents therein become those of the CITY.
4. Before the award of the contract, all proposals will be designated confidential to the extent permitted by the California Public Records Act. After the award of the contract (or if not awarded, after rejection of all proposals), all proposals will be regarded as public records and will be subjected to review by the public. Any language purporting to render all or portions of the proposals confidential will be regarded as non-effective and be disregarded.
5. The CITY reserves the right to withdraw this RFP at any time without prior notice. Further, the CITY makes no representations that any agreement will be awarded to any consultant responding to this RFP. The CITY expressly reserves the right to postpone reviewing the proposals for its own convenience and to reject any and all proposals responding to this RFP without indicating any reasons for such rejection.
6. Any contract to be awarded as a result of this RFP will be awarded without discrimination based on race, color, religion, sex, or national origin.
7. The protest procedure is intended to handle and resolve disputes related to the contract award for this PROJECT pursuant to Title 49 Code of Federal Regulations Part 18 Section 18.36 (b) (12)(i)-(ii) and the City of Barstow policies and procedures. The protesting consultant must exhaust all administrative remedies with the City of Barstow before pursuing a protest with a Federal agency.
8. Prospective consultants are encouraged to promptly notify the person designated in Section III of this RFP, in writing, of any apparent inconsistencies, problems or ambiguities in the Scope of Work or any other section of this RFP. If deemed necessary, the CITY shall issue addenda to clarify such circumstances prior to the final submittal date.

Prospective consultants and their sub-consultants are required to have adequate financial management and accounting system as required by 48 CFR part 16.30103, 2 CFR part 200, and 48 CFR Part 31

Prospective consultants and their sub-consultants are required to pay California State Prevailing Wages for all applicable services. California State Prevailing Wages can be obtained from the Department of Industrial Relations at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

9. The City reserves the right to remedy technical errors, modify the published scope of services, and approve or disapprove the use of all sub consultants.
10. The City. Statements and other materials submitted will not be returned unless portions of submittals are designated as proprietary at the time of submittal and requested to be returned.

The City has the right to use any or all ideas or concepts presented in any proposal or interview without restriction, and without conversation with the proposers. As a corollary, selection of a consultant does not constitute City acceptance of all of the particulars of its RFP.

Performance of Service

Task Orders – At the time a Consultant is selected for a specific project, the Consultant will be asked to prepare a schedule of the various jobs listed by project task order(s).

Attachment A

Exhibit 10-O1: Consultant Proposal DBE Commitment

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE:

| 7. Description of Work, Service, or Materials Supplied | 8. DBE Certification Number | 9. DBE Contact Information | 10. DBE % |
|---|-----------------------------|---|-----------|
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| | | | |
| | | | |
| Local Agency to Complete this Section | | 11. TOTAL CLAIMED DBE PARTICIPATION | % |
| 17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____ 20. Consultant's Ranking after Evaluation: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. _____ _____ _____ | | | |
| | | IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. _____ 12. Preparer's Signature 13. Date _____ 14. Preparer's Name 15. Phone _____ 16. Preparer's Title | |

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

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

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENTCONSULTANT SECTION

1. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
2. **Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
3. **Project Location** - Enter the project location as it appears on the project advertisement.
4. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
5. **Consultant's Name** - Enter the consultant's firm name.
6. **Prime Certified DBE** - Check box if prime contractor is a certified DBE.
7. **Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
8. **DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
9. **DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
10. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
11. **Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
12. **Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
13. **Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
14. **Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
15. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
16. **Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

17. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
18. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
19. **Proposed Contract Execution Date** - Enter the proposed contract execution date.
20. **Consultant's Ranking after Evaluation** - Enter consultant's ranking after all submittals/consultants are evaluated. Use this as a quick comparison for evaluating most qualified consultant.
21. **Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
22. **Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
23. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
24. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
25. **Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

Attachment B

Caltrans Exhibit 10-Q Disclosure of Lobbying Activities

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

| | | |
|---|--|--|
| <p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p> | <p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p> | <p>3. Report Type:</p> <p><input type="checkbox"/> a. initial <input type="checkbox"/> b. material change</p> <p>For Material Change Only: year ____ quarter ____ date of last report _____</p> |
| <p>4. Name and Address of Reporting Entity</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known</p> <p>Congressional District, if known _____</p> | <p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, if known _____</p> | |
| <p>6. Federal Department/Agency:</p> | <p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable _____</p> | |
| <p>8. Federal Action Number, if known:</p> | <p>9. Award Amount, if known:</p> | |
| <p>10. Name and Address of Lobby Entity (If individual, last name, first name, MI)</p> <p>(attach Continuation Sheet(s) if necessary)</p> | <p>11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI)</p> | |
| <p>12. Amount of Payment (check all that apply)</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p> | <p>14. Type of Payment (check all that apply)</p> <p><input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____</p> | |
| <p>13. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____</p> | | |
| <p>15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12:</p> <p>(attach Continuation Sheet(s) if necessary)</p> | | |
| <p>16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/></p> | | |
| <p>17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p> | | |
| | | <p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p> |
| <p>Authorized for Local Reproduction Standard Form - LLL</p> | | |
| <p>Federal Use Only:</p> | | |

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

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

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

Attachment C
Register Form

Register Form

To be Officially Register as a Proposer for this specific project and to be assured of receiving all addendums and Request for Information (RFI's) responses the following information must be submitted to the City of Barstow via email at: dgonzales@barstowca.org. All RFI's must also be submitted via email to the stated email address above.

Register before September 8, 2016 at 4:00 p.m. Failure to officially register may result in not receiving addenda(s) to the RFP. Failure to acknowledge addenda to the RFP may render your proposal as non-responsive.

It is the Proposer's responsibility to verify that their firm is officially registered.

Company Name: _____
Mailing Address _____

Primary Contact Name: _____
Primary Contact email address: _____
Primary Contact phone number: _____

Secondary Contact Name: _____
Secondary Contact email address: _____
Secondary Contact phone Number _____

Attachment D
Acknowledgement Receipt of Addendum(s)

ACKNOWLEDGEMENT RECEIPT OF ADDENDUM(S)

ENG-2021-0401

Company/Organization: _____
Address: _____

I hereby acknowledge by signing this form, that our firm has receipt of all Addenda issued.

Signed Date

Printed or Typed Name Title

Attachment E

Exhibit 10-I: Notice to Proposers DBE Information

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

(Federally funded projects only)

The Agency has established a DBE goal for this Contract of _____

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

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

Exhibit 10-O2 *Consultant Contract DBE Information* must be included in [best qualified consultant’s executed consultant contract](#). Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Civil Rights [website](#)
 - 1. Click on the link titled Disadvantaged Business Enterprise;
 - 2. Click on Search for a DBE Firm link;
 - 3. Click on [Access to the DBE Query Form](#) located on the first line in the center of the page.

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

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

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

Attachment F
Exhibit 10-R AE Sample Contract Language

Exhibit 10-R: A&E BOILERPLATE AGREEMENT LANGUAGE

(For Local Assistance Federal-aid Projects)

NOTE TO LOCAL AGENCY - BE SURE THAT YOUR LEGAL STAFF REVIEWS AND APPROVES ALL CONSULTANT CONTRACTS BEFORE EXECUTION. THIS AGREEMENT LANGUAGE IS RECOMMENDED LANGUAGE. MODIFY AS RECOMMENDED BY YOUR OWN LEGAL STAFF AND TO FIT YOUR PARTICULAR REQUIREMENTS AND PROJECT.

THE FISCAL AND FEDERAL PROVISIONS ARE REQUIRED IN ALL FEDERALLY FUNDED CONTRACTS. THE ORIGINAL INTENT OF THE ARTICLE SHALL REMAIN, IF MODIFIED BY YOUR LEGAL STAFF.

This exhibit contains fiscal requirements from 2 CFR 200 and may be used for state-only funded contracts as well.

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ARTICLE I INTRODUCTION

This AGREEMENT is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, LOCAL AGENCY:

The name of the "CONSULTANT" is as follows:

Incorporated in the State of

The Project Manager for the "CONSULTANT" will be

The name of the "LOCAL AGENCY" is as follows:

The Contract Administrator for LOCAL AGENCY will be

- B. The work to be performed under this AGREEMENT is described in Article III Statement of Work and the approved CONSULTANT's Cost Proposal dated _____. The approved CONSULTANT's Cost Proposal is attached hereto (_____) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- C. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless LOCAL AGENCY, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this AGREEMENT on the part of CONSULTANT, except such loss or damage which was caused by the sole negligence, or willful misconduct of LOCAL AGENCY, as determined by a Court of competent jurisdiction. The provisions of this section shall survive termination or suspension of this AGREEMENT.
- D. CONSULTANT in the performance of this AGREEMENT, shall act in an independent capacity. It is understood and agreed that CONSULTANT (including CONSULTANT's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto. CONSULTANT's assigned personnel shall not be entitled to any benefits payable to employees of City.
- E. LOCAL AGENCY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of the AGREEMENT, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.
- F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.

- G. Except as expressly authorized herein, CONSULTANT's obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the LOCAL AGENCY. However, claims for money due or which become due to CONSULTANT from City under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the LOCAL AGENCY.
- H. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- I. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

(Choose either Option 1 or Option 2)

(Option 1 - Use paragraphs A & B below for standard AGREEMENTs)

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the LOCAL AGENCY's Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

(Option 2 - Use paragraphs A & B below for on-call AGREEMENTs)

- A. CONSULTANT shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for LOCAL AGENCY's Contract Administrator or Project Coordinator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator or Project Coordinator, as needed, to discuss progress on the project(s).

ARTICLE III STATEMENT OF WORK

(Insert Appropriate Statement of work including a Description of the Deliverables) *in the following sections. If a section does not apply to the AGREEMENT, state "Not Applicable to this AGREEMENT."*)

A. CONSULTANT Services

Detail based on the services to be furnished should be provided by CONSULTANT. Nature and extent should be verified in the negotiations to make precise statements to eliminate subsequent uncertainties and misunderstandings. Reference to the appropriate standards for design or other standards for work performance stipulated in CONSULTANT AGREEMENT should be included. Describe acceptance criteria, and if the responsible CONSULTANT/engineer shall sign all Plans, Specifications and Estimate (PS&E) and engineering data furnished under the AGREEMENT including registration number.

Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion, a Caltrans Deputy District Director signs the Finding of No Significant Impact, or the Caltrans District Director signs the Record of Decision (see [LAPM Chapter 6: Environmental Procedures](#), and the Standard Environmental Reference).

B. Right of Way

State whether Right of Way requirements are to be determined and shown by CONSULTANT, whether land surveys and computations with metes and bounds descriptions are to be made, and whether Right of Way parcel maps are to be furnished.

C. Surveys

State whether or not the CONSULTANT has the responsibility for performing preliminary or construction surveys.

D. Subsurface Investigations

State specifically whether or not CONSULTANT has responsibility for making subsurface investigations. If borings or other specialized services are to be made by others under the supervision of CONSULTANT, appropriate provisions are to be incorporated. Archaeological testing and data recovery guidance can be found in the Standard Environmental Reference.

E. Local Agency Obligations

All data applicable to the project and in possession of LOCAL AGENCY, another agency, or government agency that are to be made available to CONSULTANT are referred to in the AGREEMENT. Any other assistance or services to be furnished to CONSULTANT are to be stated clearly.

F. Conferences, Site Visits, Inspection of Work

This AGREEMENT provides for conferences as needed, visits to the site, and inspection of the work by representatives of the LOCAL AGENCY, State, and/or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.

G. Checking Shop Drawings

For AGREEMENTs requiring the preparation of construction drawings, make provision for checking shop drawings. Payment for checking shop drawings by CONSULTANT may be included in the AGREEMENT fee, or provision may be made for separate payment.

H. CONSULTANT Services During Construction

The extent, if any of CONSULTANT's services during the course of construction as material testing, construction surveys. etc., are specified in the AGREEMENT together with the method of payment for such services.

- I. Documentation and Schedules
AGREEMENTs where appropriate, shall provide that CONSULTANT document the results of the work to the satisfaction of LOCAL AGENCY, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the AGREEMENT objectives.
- J. Deliverables and Number of Copies
The number of copies or documents to be furnished, such as reports, brochures, sets of plans, specifications, or Right of Way parcel maps shall be specified. Provision may be made for payment for additional copies.

ARTICLE IV PERFORMANCE PERIOD

A time must be set for beginning and ending the work under the AGREEMENT. The time allowed for performing the work is specified; it should be reasonable for the kind and amount of services contemplated; and it is written into the AGREEMENT. If it is desirable that Critical Path Method (CPM) networks, or other types of schedules be prepared by CONSULTANT, they should be identified and incorporated into the AGREEMENT.

- A. This AGREEMENT shall go into effect on (____), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on (____), unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.
Use paragraph C below in addition to paragraphs A & B above for on-call AGREEMENTs. On-call AGREEMENTs shall be 5 years maximum.
- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this AGREEMENT, the terms of the AGREEMENT shall be extended by AGREEMENT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only. The maximum term shall not exceed five (5) years.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

(Choose either Option 1, 2, 3, or 4)

(Option 1 - Use paragraphs A through K below for Cost-Plus-Fixed Fee AGREEMENTs. Use [Exhibit 10-H1: Cost Proposal Format](#))

- A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT 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 CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY'S approved overhead rate set forth in the

Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I" of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.

- B. The indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. CONSULTANT's agreement to the extension of the 1-year applicable period shall not be a condition or qualification to be considered for the work or AGREEMENT award.
- C. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$(_____). The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- D. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- E. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- F. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT.
- G. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- H. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT 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 AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:
- I. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$(_____).
- J. 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.

(Option 2 - For Cost per Unit of Work AGREEMENTs, replace paragraphs A & B of Option 1 with the following paragraphs A, B, and C and re-letter the remaining paragraphs. Adjust as necessary for work specific to your project. Use [Exhibit 10-H3: Cost Proposal Format](#)).

- A. The method of payment for the following items shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.
- B. The specified rate to be paid for vehicle expense for CONSULTANT's field personnel shall be \$() per approved Cost Proposal. This rate shall be for fully equipped vehicle(s) specified in Article III Statement of Work, as applicable. The specified rate to be paid for equipment shall be, as listed in the approved Cost Proposal.
- C. The method of payment for this AGREEMENT, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment-rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT 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 Cost Proposal, unless additional reimbursement is provided for, by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and AGREEMENT is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I," of this article shall not be exceeded unless authorized by AGREEMENT amendment.

(Option 3 - Use paragraphs A through P for Specific Rates of Compensation Agreements [such as on-call Agreements]. This payment method shall only be used when it is not possible at the time of procurement to estimate the extent or duration of the work or to estimate costs with any reasonable degree of accuracy. The specific rates of compensation payment method should be limited to AGREEMENTs or components of AGREEMENTs for specialized or support type services where the CONSULTANT is not in direct control of the number of hours worked, such as construction engineering and inspection. Use [Exhibit 10-H2: Cost Proposal Format](#)).

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this AGREEMENT. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.

- D. After a project to be performed under this AGREEMENT is identified by LOCAL AGENCY, LOCAL AGENCY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a LOCAL AGENCY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both LOCAL AGENCY and CONSULTANT.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's approved Cost Proposal.

CONSULTANT shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT is responsible for paying the appropriate rate, including escalations that take place during the term of the AGREEMENT.

- F. *(Local Agency to include either (a) or (b) below; delete the other one)*
(a) Reimbursement for transportation and subsistence costs shall not exceed State rates.
(b) Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONSULTANT will be responsible for transportation and subsistence costs in excess of State rates.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an AGREEMENT amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this AGREEMENT.
- J. A Task Order is of no force or effect until returned to LOCAL AGENCY and signed by an authorized representative of LOCAL AGENCY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by LOCAL AGENCY.
- K. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by CONSULTANT prior to the expiration or termination

of this AGREEMENT. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

- L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this AGREEMENT.
- M. The total amount payable by LOCAL AGENCY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.
- N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders may not be used to amend the language (or the terms) of this AGREEMENT nor to exceed the scope of work under this AGREEMENT.
- P. The total amount payable by LOCAL AGENCY for all Task Orders resulting from this AGREEMENT shall not exceed \$ (_____). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this AGREEMENT through Task Orders.

(Option 4 - Use paragraphs A through E below for lump sum agreements. Use [Exhibit 10-H1: Cost Proposal Format](#))

- A. The method of payment for this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article III Statement of Work. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by LOCAL AGENCY.
- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- C. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT

number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice must be submitted within sixty (60) calendar days after completion of CONSULTANT's work unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

- E. The total amount payable by LOCAL AGENCY shall not exceed \$(_____).

ARTICLE VI TERMINATION

- A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.
- B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by City by virtue of any breach of this AGREEMENT by CONSULTANT, and City may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due City from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONSULTANT to LOCAL AGENCY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and subconsultant AGREEMENTS, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, LOCAL AGENCY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, LOCAL AGENCY 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.
- E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit

recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the LOCAL AGENCY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be

as fully responsible to the LOCAL AGENCY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from the LOCAL AGENCY's obligation to make payments to the CONSULTANT.

- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.
- E. Any substitution of Subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.

F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

G. Prompt Payment of Withheld Funds to Subconsultants

The LOCAL AGENCY may hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY, of the contract work, and pay retainage to CONSULTANT based on these acceptances. The LOCAL AGENCY shall designate one of the methods below in the contract to ensure prompt and full payment of any retainage kept by CONSULTANT or subconsultant to a subconsultant. (Choose either Method 1, Method 2, or Method 3 below and delete the other two.)

Method 1: No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. CONSULTANTS and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to

limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Method 2: No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Method 3: The LOCAL AGENCY shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY of the contract work and pay retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the LOCAL AGENCY. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a subconsultant.

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by LOCAL AGENCY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of [proposal](#) must be adequately justified.
- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:

1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY 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 LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.
2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records
 1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.

- b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
 3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
 4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
 5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
 6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
- F. Penalty
 1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit

to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due

the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist.

An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING

(Include this article in all AGREEMENTs where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the AGREEMENT; delete this article and re-number the subsequent articles.)

- A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:
1. No State, Federal, or LOCAL AGENCY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.

- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States 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.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other

arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 3. Does not have a proposed debarment pending; and
 4. 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.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. CONSULTANT, subrecipient (LOCAL AGENCY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, The LOCAL AGENCY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify that the DBE firm is certified as DBE at date of proposal opening and document the record by printing out the California Unified Certification Program (CUCP) data for each DBE firm. A list of DBEs certified by the CUCP can be found [here](#).

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.

- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTs who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.

- B. The goal for DBE participation for this AGREEMENT is _____%. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10-02: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. [Contract Assurance](#)

[Under 49 CFR 26.13\(b\):](#)

[CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.](#)

Failure by the CONSULTANT to carry out these requirements is a material breach of this [contract](#), which may result in the termination of this [contract](#) or such other remedy as the [recipient](#) deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying [CONSULTANT](#) from future [proposing](#) as non-responsible

E. [Termination and Substitution of DBE Subconsultants](#)

[CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the LOCAL AGENCY's written consent. CONSULTANT shall not terminate or substitute a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the LOCAL AGENCY. Unless the LOCAL AGENCY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02 Consultant Contract DBE Commitment form, included in the Bid.](#)

The LOCAL AGENCY authorizes a request to use other forces or sources of materials if CONSULTANT shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The LOCAL AGENCY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the LOCAL AGENCY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The LOCAL AGENCY determines other documented good cause.

CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide the reasons and provide the DBE with 5 days to respond to the notice and advise CONSULTANT and the LOCAL AGENCY of the reasons why the use of other forces or sources of materials should not occur.

CONSULTANT's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from CONSULTANT to the DBE regarding the request.
3. Notices from the DBEs to CONSULTANT regarding the request.

If a listed DBE is terminated or substituted, CONSULTANT must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

F. Commitment and Utilization

The LOCAL AGENCY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The LOCAL AGENCY shall request CONSULTANT to:

1. Notify the LOCAL AGENCY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work

3. Maintain records including:

- Name and business address of each 1st-tier subconsultant
- Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
- Date of payment and total amount paid to each business (see Exhibit 9-F *Monthly Disadvantaged Business Enterprise Payment*)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the LOCAL AGENCY. On work completion, CONSULTANT shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the LOCAL AGENCY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the LOCAL AGENCY within 90 days of contract acceptance. The LOCAL AGENCY will withhold \$10,000 until the form is submitted. The LOCAL AGENCY will release the withhold upon submission of the completed form.

In the LOCAL AGENCY's reports of DBE participation to Caltrans, the LOCAL AGENCY must display both commitments and attainments.

- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) 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 CUF, 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 CUF, 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.
- H. A DBE does not perform a CUF 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.
- I. 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 CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each

DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

- K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.
- L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to the Agency.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

(Choose either Option 1 or Option 2)

(Option 1 - for AGREEMENT with a scope of services that may require the CONSULTANT or subconsultant to work within the operating state or Local Agency Highway Right of Way; where there would be exposure to public traffic or construction operations).

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for CONSULTANT with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.
- B. The Certificate of Insurance will provide:
 - 1. That the insurer will not cancel the insured's coverage without thirty (30) calendar days prior written notice to LOCAL AGENCY.
 - 2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this AGREEMENT are concerned.
 - 3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.
- C. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) calendar days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.

(Option 2 - for AGREEMENTs with a scope of services that will not require the CONSULTANT or subconsultant to work within the operating state or Local Agency Highway Right of Way where there would be exposure to public traffic or construction CONSULTANT operations).

CONSULTANT is not required to show evidence of general comprehensive liability insurance.

ARTICLE XX FUNDING REQUIREMENTS

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

ARTICLE XXI CHANGE IN TERMS

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY's Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XXII CONTINGENT FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXIII DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five

(45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

(Choose either Option 1 or Option 2)

(Option 1 - Use paragraphs A through C below for all AGREEMENTs without PS&E submittal)

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and (_____), who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) calendar days after completion of all work under the AGREEMENT, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

(Option 2 - Replace Paragraph B, above, with the following for AGREEMENTs requiring the submission of PS&E)

- B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

ARTICLE XXIV INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

(Add the following paragraph to all AGREEMENTs, which may require trenching of five feet or deeper)

- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method,

operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.
- D. 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).
- E. LOCAL AGENCY 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.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT 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 LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.

(For PS&E contracts add paragraph F, below, to paragraphs A through E, above)

- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

ARTICLE XXXI PROMPT PAYMENT FROM THE LOCAL AGENCY TO CONSULTANT

The LOCAL AGENCY shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the LOCAL AGENCY fails to pay promptly, the LOCAL AGENCY shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the LOCAL AGENCY shall act in accordance with both of the following:

- (1) Each payment request shall be reviewed by the LOCAL AGENCY as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
- (2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

ARTICLE XXXII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT:

_____, Project Manager

LOCAL AGENCY:

_____, Contract Administrator

ARTICLE XXXIII CONTRACT

The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.

ARTICLE XXXIV SIGNATURES

(Name of Signer)
Date: _____

(Name of Signer)
Date: _____

Attachment G
Exhibit 10-H Example Cost Proposal

Cost proposal shall be submitted in a separate sealed envelope mark the following:

Local Roadway Safety Plan

Cost Proposal

This project will be a Firm Fixed Price Contract.

Consultant must submit the Scope and Fee and the required Exhibit 10-H forms.



Local Roadway Safety Plan
Scope and Fee

Company Name:
Address:
State, Postal Code:
Telephone Number:

| Task | Description | Firm | | | Firm | | | Firm | | | Total Task Hours | Total Task Cost |
|--------|--|----------------|-------------|------------|------------|-------------|------------|------------|-------------|------------|--------------------|-----------------|
| | | Role/Staff | | | Role/Staff | | | Role/Staff | | | | |
| | | Hours | Hourly Cost | Total Cost | Hours | Hourly Cost | Total Cost | Hours | Hourly Cost | Total Cost | | |
| Task 1 | Project Management | | | | | | | | | | | |
| Task 2 | Document Review and Information Collection | | | | | | | | | | | |
| Task 3 | Data Collection | | | | | | | | | | | |
| Task 4 | Collision and Roadway Analysis | | | | | | | | | | | |
| Task 5 | Countermeasure Selection | | | | | | | | | | | |
| Task 6 | Develop Safety Projects | | | | | | | | | | | |
| Task 7 | Final Local Roadway Safety Plan | | | | | | | | | | | |
| | | Task Subtotal: | | | | | | | | | Grand Total: _____ | |

| Direct Cost | |
|-----------------------|--------|
| Direct Cost | Amount |
| | |
| | |
| | |
| | |
| | |
| Direct Cost Subtotal: | |

| Subconsultants | |
|----------------|------------|
| Subconsultants | Total Cost |
| | |



Local Roadway Safety Plan
Scope and Fee

| | | |
|--|-----------------|--|
| | | |
| | | |
| | | |
| | | |
| | Sub-Consultants | |

AMOUNT

| DBE Constultant | | |
|-----------------|-------------|------------|
| Task | Description | Total Cost |
| | | |
| | | |
| | | |
| | | |
| | | |
| | Total: | |

DBE Percentage of Project: _____

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Prime Consultant Subconsultant 2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

DIRECT LABOR

| Classification/Title | Name | Hours | Actual Hourly Rate | Total |
|----------------------|-------|-------|--------------------|-------|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

LABOR COSTS

a) Subtotal Direct Labor Costs _____

b) Anticipated Salary Increases (see page 2 for calculation) _____

c) **TOTAL DIRECT LABOR COSTS [(a) + (b)]** _____

INDIRECT COSTS

d) Fringe Benefits (Rate: _____) e) Total Fringe Benefits [(c) x (d)] _____

f) Overhead (Rate: _____) g) Overhead [(c) x (f)] _____

h) General and Administrative (Rate: _____) i) Gen & Admin [(c) x (h)] _____

j) **TOTAL INDIRECT COSTS [(e) + (g) + (i)]** _____

FIXED FEE

k) **TOTAL FIXED FEE [(c) + (j) x fixed fee _____]** _____

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

| Description of Item | Quantity | Unit | Unit Cost | Total |
|---------------------|----------|------|-----------|-------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

l) **TOTAL OTHER DIRECT COSTS** _____

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1: _____

Subconsultant 2: _____

Subconsultant 3: _____

Subconsultant 4: _____

m) **TOTAL SUBCONSULTANTS' COSTS** _____

n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)]** _____

TOTAL COST [(c) + (j) + (k) + (n)] _____

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3
COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

| | | | | |
|---|----------------------------------|---|-----------------------|--------------------------------|
| Direct Labor Subtotal per Cost Proposal | Total Hours per Cost Proposal | = | Avg Hourly Rate | 5 Year Contract Duration |
| \$250,000.00 | 500 | | \$50.00 | Year 1 Avg Hourly Rate |

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

| | | | | | | |
|--------|-----------------|---|---------------------|---|---------|------------------------|
| | Avg Hourly Rate | | Proposed Escalation | | | |
| Year 1 | \$50.00 | + | 2% | = | \$51.00 | Year 2 Avg Hourly Rate |
| Year 2 | \$51.00 | + | 2% | = | \$52.02 | Year 3 Avg Hourly Rate |
| Year 3 | \$52.02 | + | 2% | = | \$53.06 | Year 4 Avg Hourly Rate |
| Year 4 | \$53.06 | + | 2% | = | \$54.12 | Year 5 Avg Hourly Rate |

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

| | | | | | | |
|--------|------------------------------------|---|----------------------------------|---|-------------------------|------------------------|
| | Estimated % Completed Each Year | | Total Hours per Cost Proposal | | Total Hours per Year | |
| Year 1 | 20.0% | * | 5000 | = | 1000 | Estimated Hours Year 1 |
| Year 2 | 40.0% | * | 5000 | = | 2000 | Estimated Hours Year 2 |
| Year 3 | 15.0% | * | 5000 | = | 750 | Estimated Hours Year 3 |
| Year 4 | 15.0% | * | 5000 | = | 750 | Estimated Hours Year 4 |
| Year 5 | 100% | * | 5000 | = | 500 | Estimated Hours Year 5 |
| Total | 100% | | Total | = | 5000 | |

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

| | | | | | | |
|--------|---|---|---------------------------------------|---|------------------|------------------------|
| | Avg Hourly Rate (calculated above) | | Estimated hours (calculated above) | | Cost per Year | |
| Year 1 | \$50.00 | * | 1000 | = | \$50,000.00 | Estimated Hours Year 1 |
| Year 2 | \$51.00 | * | 2000 | = | \$102,000.00 | Estimated Hours Year 2 |
| Year 3 | \$52.02 | * | 750 | = | \$39,015.00 | Estimated Hours Year 3 |
| Year 4 | \$53.06 | * | 750 | = | \$39,795.30 | Estimated Hours Year 4 |
| Year 5 | \$54.12 | * | 500 | = | \$27,060.80 | Estimated Hours Year 5 |
| | Total Direct Labor Cost with Escalation | | | = | \$257,871.10 | |
| | Direct Labor Subtotal before Escalation | | | = | \$250,000.00 | |
| | Estimated total of Direct Labor Salary Increase | | | = | \$7,871.10 | Transfer to Page 1 |

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.
(i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: _____ Title *: _____

Signature : _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

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

List services the consultant is providing under the proposed contract:

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant _____ Prime Consultant Subconsultant 2nd Tier Subconsultant

Project No. _____ Contract No. _____ Participation Amount \$ _____ Date _____

| | | | |
|-----------------------|---|---|-------------------|
| For Combined Rate | Fringe Benefit % + General & Administrative % | = | Combined ICR% |
| | OR | | |
| For Home Office Rate | Fringe Benefit % + General & Administrative % | = | Home Office ICR% |
| For Field Office Rate | Fringe Benefit % + General & Administrative % | = | Field Office ICR% |
| | Fee | = | % |

BILLING INFORMATION

CALCULATION INFORMATION

| Name/Job Title/Classification ¹ | Hourly Billing Rates ² | | | Effective Date of Hourly Rate | | Actual or Avg. Hourly Rate ⁴ | % or \$ Increase | Hourly Range - for Classifications Only |
|--|-----------------------------------|----------|--------|-------------------------------|------------|---|------------------|---|
| | Straight ³ | OT(1.5x) | OT(2x) | From | To | | | |
| John Doe – Project Manager * Civil Engineer II | \$0.00 | \$0.00 | \$0.00 | 01/01/2016 | 12/31/2016 | \$0.00 | | Not Applicable |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2017 | 12/31/2017 | \$0.00 | 0.0% | |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2018 | 12/31/2018 | \$0.00 | 0.0% | |
| Sue Jones – Construction Engineer/Inspector Engineer I | \$0.00 | \$0.00 | \$0.00 | 01/01/2016 | 12/31/2016 | \$0.00 | | Not Applicable |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2017 | 12/31/2017 | \$0.00 | 0.0% | |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2018 | 12/31/2018 | \$0.00 | 0.0% | |
| Buddy Black – Claims Engineer Engineer III | \$0.00 | \$0.00 | \$0.00 | 01/01/2016 | 12/31/2016 | \$0.00 | | Not Applicable |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2017 | 12/31/2017 | \$0.00 | 0.0% | |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2018 | 12/31/2018 | \$0.00 | 0.0% | |
| Land Surveyor ** | \$0.00 | \$0.00 | \$0.00 | 01/01/2016 | 12/31/2016 | \$0.00 | | \$00 - \$00 |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2017 | 12/31/2017 | \$0.00 | 0.0% | \$00 - \$00 |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2018 | 12/31/2018 | \$0.00 | 0.0% | \$00 - \$00 |
| Technician | \$0.00 | \$0.00 | \$0.00 | 01/01/2016 | 12/31/2016 | \$0.00 | | \$00 - \$00 |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2017 | 12/31/2017 | \$0.00 | 0.0% | \$00 - \$00 |
| | \$0.00 | \$0.00 | \$0.00 | 01/01/2018 | 12/31/2018 | \$0.00 | 0.0% | \$00 - \$00 |

(Add pages as necessary)

NOTES:

1. Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate * (1 + ICR) * (1 + Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant’s annual accounting period and established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant _____ Prime Consultant Subconsultant

Project No. _____ Contract No. _____ Date _____

| SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary) | | | | |
|--|----------|------|-----------|-------|
| Description of Item | Quantity | Unit | Unit Cost | Total |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Subconsultant 1: | | | | |
| Subconsultant 2: | | | | |
| Subconsultant 3: | | | | |
| Subconsultant 4: | | | | |
| Subconsultant 5: | | | | |

Note: Add additional pages if necessary.

NOTES:

1. List other direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentation.
2. Proposed ODC items should be consistently billed regardless of client and contract type.
3. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
4. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
5. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
6. Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.

7. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
8. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is its standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.
9. The cost proposal format shall not be amended. All costs must comply with the Federal cost principles.
10. Add additional pages if necessary.
11. Subconsultants must provide their own cost proposals.

EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 7. Generally Accepted Accounting Principles (GAAP)
- 8. Terms and conditions of the contract
- 9. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 10. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 11. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 12. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title*: _____

Signature: _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

COST PER UNIT OF WORK CONTRACTS
(GEOTECHNICAL AND MATERIAL TESTING)

Note: Mark-ups are Not Allowed

Prime Consultant

Subconsultant

2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

Unit/Item of Work:

(Example: Log of Test Boring for Soils Report, or ADL Testing for Hazardous Waste Material Study) Include as many Items as necessary.

| DIRECT LABOR | Hours | Billing Hourly Rate (\$) | Total (\$) |
|--------------------------------|-------|--------------------------|------------|
| Professional (Classification)* | _____ | _____ | _____ |
| Sub-professional/Technical** | _____ | _____ | _____ |
| EQUIPMENT 1 (with Operator) | _____ | _____ | _____ |
| EQUIPMENT 2 (with Operator) | _____ | _____ | _____ |

Consultant's Other Direct Costs (ODC) – Itemize:

| Description of Item | Quantity | Unit | Unit Cost | Total |
|---------------------|----------|------|-----------|-------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Subconsultant 1: | | | | |
| Subconsultant 2: | | | | |
| Subconsultant 3: | | | | |
| Subconsultant 4: | | | | |
| Subconsultant 5: | | | | |

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK _____

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
- Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- ODC items shall be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered "tools of the trade" are not reimbursable.
- Billing Hourly Rates must be actual, allowable, and reasonable.

EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 13. Generally Accepted Accounting Principles (GAAP)
- 14. Terms and conditions of the contract
- 15. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 16. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 17. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 18. [48 Code of Federal Regulation Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title*: _____

Signature: _____ Date of Certification (mm/dd/yyyy) _____

Email: _____ Phone Number: _____

Address: _____

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract: