

**PROFESSIONAL TRAFFIC ENGINEERING, DESIGN, AND
ENVIRONMENTAL SERVICES FOR THE CITY'S
PEDESTRIAN, BICYCLE, AND SAFE ROUTE TO SCHOOLS PROJECT**

October 15, 2024

ADDENDUM

This Addendum is issued to modify the previously issued RFP for City of Barstow's **Professional Traffic Engineering, Designing and Environmental Services for the City's Pedestrian, Bicycle, and Safe Route to Schools Project**.

The original RFP document remains in full force and effect, except as modified by this addendum, which is hereby made part of the RFP. Respondents shall take this Addendum into consideration when preparing and submitting its Proposal.

Should you have any questions, please feel free to contact Maribel Hernandez, at 760.255.5122, or email: mhernandez@barstowca.org

To all prospective bidders:

- The deadline for the submission of proposal is November 14, 2024, at 4:00 PM.



Maribel Hernandez
City Clerk Services Manager

Receipt acknowledged and conditions agreed to this ___ day of ___ 2024.

Bidder: _____

By: _____





Request for Proposal

PROFESSIONAL TRAFFIC ENGINEERING, DESIGN, AND ENVIRONMENTAL SERVICES FOR THE CITY'S PEDESTRIAN, BICYCLE, AND SAFE ROUTE TO SCHOOLS PROJECT.

**Active Transportation Program (ATP)
Grant Project ID #: 0815000132**

Proposals must be received by the City Clerk, City of Barstow City Hall at 200 E. Mountain View Street, Suite A, Barstow, California 92311 no later than;

DATE DUE: October 16, 2024
TIME DUE: 4:00 p.m.

Envelope(s) shall be sealed and marked;

“Professional Traffic Engineering, Design, And Environmental Services the City’s Pedestrian, Bicycle, and Safe Route to Schools Project”

Respondents must submit RFP with Scope of Service in one individual sealed envelope and the Cost Proposal in a second individual sealed envelope

For Proposal Packets, Technical and RFP Questions, contact;

Chris Heldreth, Community Development Director

Email: cheldreth@barstowca.org

Telephone: (760) 255-5169

Fax: (760) 256-1750

Submit Proposal to:

City Clerk’s Office

220 E. Mountain View Street, Suite A

Barstow, CA 92311



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NOTICE OF INVITING PROPOSALS (RFP ENG-2024-200)

“Professional Traffic Engineering, Design, and Environmental Service the City’s Pedestrian, Bicycle, and Safe Route to Schools Project”

NOTICE IS HEREBY GIVEN that Request for Proposals (RFP) for providing Professional Traffic Engineering, Design, and Environmental Services for the City’s Pedestrian, Bicycle, and Safe Route to Schools Project will be received at the office of the City Clerk, 220 East Mountain View Street, Barstow California, until 4:00 p.m. (local) on October 16, 2024.

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 [Bid Opportunities / Request for Proposals | City of Barstow \(barstowca.org\)](https://www.barstowca.org/Bid-Opportunities/Request-for-Proposals). If you are interested in submitting a proposal, it is essential that you submit to mhernandez@barstowca.org the register form by **October 3, 2024, 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 October 15, 2024 4:00p.m. Late RFPs will not be considered
4. It is preferred that all RFPs be submitted on recycled paper, printed on two sides. Limit your RFP to 40 pages with information on both sides of the sheet, exclusive of charts, resumes, graphics, and required forms. Provided a sample previous PE package on an approved electronic media (USB or Portable Hard Drive).
5. Submit one original with original signatures and four copies of the written proposal.
6. Submit pricing in a separate sealed envelope entitled “Price Proposal”.
7. Submit the entire proposal in a sealed envelope with “Sealed Proposal for “Professional Traffic Engineering, Design, and Environmental Services for the City’s Pedestrian, Bicycle, and Safe Route to Schools Project”– Do not open with regular Mail” printed on the outside.
8. Selection of qualified consultant will be by Chapter 10 “Consultant Selection of Caltran’s Local Assistance Procedures Manual.
9. This request does not constitute an offer of employment or contract for services.
10. 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.
11. The City reserves the option to retain all RFPs, whether selected or rejected.
12. The City reserves the right to select the Consultant who tenders a RFP, which in the judgment of the City, best accomplishes the desired results.
13. The selection committee may deem it necessary to interview applicants. The City retains the right to interview applicants as part of the selection process.

City of Barstow • RFP ENG- 2024-200 • September 16, 2024
ENGINEERING, DESIGN AND ENVIRONMENTAL SERVICES

If your firm is interested and qualified, please submit one original and three (3) copies of your Request for Proposals by 4:00 p.m. on October 16, 2024 to:

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

If you have any questions about the proposal process or for technical questions, contact Chris Heldreth in writing at cheldreth@barstowca.org

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.

DECLARATION OF POSTING

I declare under penalty of perjury that I am employed by the City of Barstow, in the City Clerk's Office; and that I posted the foregoing public notice on the bulletin at the entrance to City Hall, 220 E. Mountain View Street, Barstow, CA on September 16, 2024



Maribel Hernandez, City Clerk Services Manager

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Maribel Hernandez, City Clerk Services Manager

GENERAL INFORMATION

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 19 million vehicles traveling through Barstow each year. The city is home to an Amtrak Depot at Historic Harvey House.

Goal of Project

The City of Barstow Engineering Services Division seeks a qualified, professional, engineering team to provide professional traffic engineering, design, and environmental services for the City's Pedestrian, Bicycle, and Safe Route to Schools Project. Professional services shall include, but not be limited to, the following:

- Install Bulb-outs.
- Install Bike paths.
- Install Pedestrian Hybrid Beacon Signal, Rectangular Rapid Flashing Beacons (RRFB).
- Install Speed Signs.
- Install signs.
- Install ADA compliant curb returns.
- Provide before and after pedestrian and bicycle counts.
- Provide before and after speed counts.
- Review and Provide ADA compliance at intersections.
- Provide engineering.
- Provide quantity calculations.
- Provide environmental surveys, studies and reports.
- Provide preparation of environmental documents.
- Provide preparation of permits.
- Provide utility coordination.
- Provide topographic and boundary surveying (If needed).
- Provide construction staking.
- Provide a complete Preliminary Engineering (PE) that composes of Project Approval/Environmental Documents (PAED) phase and the Plans, Specifications, and Estimates (PS&E) phase.
- All documents shall be U.S. Customary Units (English).
- Provide bid and construction assistance (including but not limited to shop drawing review),

Background

The City of Barstow conducted a citywide Safety /Audit / Evaluation to identify potential traffic safety issues for pedestrian, bicyclist, and safe routes to school's corridors. The approach to conduct this evaluation was followed as outlined in the "Local Roadway Safety Manual", which was to identify and evaluate safety issues and countermeasures. Community engagement meetings identified potential improvement projects primarily from

schools to destinations. In order to reduce pedestrian, bicyclist conflicts with vehicles, the City placed the focus on specific corridors.

SCOPE OF SERVICES

General

The scope of services for the Active Transportation Program shall include tasks described below, as well as other elements of modifications, which may be suggested by consultants presenting proposal to better meet the needs of the City. All services shall be provided in accordance with the City's draft professional services agreement, a sample of which is attached as Attachment "A".

To qualify consultant teams must demonstrate knowledge and experience in performing all management, engineering, and environmental work required for the project.

A consulting contract will be awarded by the City Council. Any project started within this period will continue through completion.

If required, the environmental consultant, in partnership with the engineering firm, shall prepare the necessary National Environmental Quality Act (NEPA) and California Environmental Quality Act (CEQA) documents to satisfy the requirements of the project funded through the Federal Highway Administration's Active Transportation Program (ATP).

Firms responding to the Request for Proposals (RFPs) should be fully familiar with and experienced in meeting the requirements of both State and Federal procedures pertaining to federally funded Active Transportation Projects (ATP).

The firm will provide a California registered Civil and/or Traffic Engineer with recent planning and designing experience (minimum five years) for the development and administration of the project. The Consultant will be responsible for reviewing and coordinating all plans with the designer and all sub-consultants.

The Consultant will set up and maintain all project records in accordance with the City and Caltrans/FHWA Standard Policies.

This project is subject to Title 49 Code of Federal Regulations Part 26 (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." The consultants must ensure that DBE firms 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 assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

Exhibit 10-I "*Notice to Proposers DBE Information*" must be included in this RFP since this project contains Federal-Aided funds.

The City of Barstow has established a DBE goal of 6% for each contract. The consultant must meet the goal by using DBEs, or if not able to meet the DBE goal, document that a good faith effort was made to meet the contract goal. Good faith efforts must be documented by the consultant and approved by the local agency (see

ENGINEERING, DESIGN AND ENVIRONMENTAL SERVICES

Exhibit 15H “*DBE Information-Good Faith Efforts*”) If the consultant’s documented good faith efforts are found to be inadequate by the City, the consultant will be offered an opportunity for reconsideration. If a DBE subconsultant is unable to perform its subcontracted service and the goal is not otherwise met, the consultant must make a good faith effort to replace it with another DBE subconsultant to the extent needed to meet the DBE goal.

A contract provision for DBE Participation will be included in all consultant contracts with Federal-Aid Funds.

The Consultant must be experienced in the expenditure of State and Federal Funds and the following:

- A. Process and work performed hereunder shall be completed in accordance with applicable laws of the State of California, the California Transportation Commission (CTC), Caltrans, and Federal Highway Administration (FHWA), as administered by Caltrans Local Assistance.
- B. Process and work performed hereunder shall be completed in accordance with the State of California and Federal Laws and Regulations.

The purpose of this Request for Proposals process is to establish the ability to obtain timely and efficient consultant assistance to address the engineering, design and environmental needs for the City’s project. To minimize response time and to meet deadlines, all-inclusive fixed-fee contracts will be negotiated proactively to ensure consultant help will be available to meet such needs as they arise.

Statement of Intent

The Consultant shall perform all professional and technical engineering and environmental services necessary to prepare all environmental documents, permit application packages, project reports, plans, specifications, and estimates. The intended outcome is to provide the City with cost effective street improvement plans, traffic signal plans that may include mass arm hybrid beacon systems to speed feedback signs, specifications, and cost estimate (PS&E) packages suitable for the advertising, bidding, and construction process. Project Approval and Environmental Documents (PAED) will need to be prepared and Plans Specification and Estimates (PS&E) package shall meet all Federal, State, and City requirements in conformance with the Federal Highway and State Administrations.

The Consultant shall demonstrate, through this RFP, successfully traffic engineering, traffic signal system design, and environmental challenges within the Active Transportation Program, including coordination and/or preparation of, but not limited to:

- 1. Project Study Reports.
- 2. Topographic and Boundary Surveys.
- 3. Area of Potential Effect Maps.
- 4. Environmental Studies and Reports (including but not limited to Natural Environment Studies, Biological Assessments, Wetland Assessments, Protocol Surveys, Visual Impact Studies, Archeological Survey Reports, Historic Property Survey Reports).
- 5. Environmental Permits (including but not limited to Army Corp of Engineers Permits, California Department of Fish and Game Streambed Alteration Agreements, Regional Water Quality Control Board Water Quality Certification).

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6. Preparation of Environmental Documents pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA, with emphasis on the procedural requirements of Caltrans and the FHWA).
7. Horizontal and Vertical Roadway Approach Alignments.
8. Structural Designs.
9. Roadway Designs.
10. Roadway Structural Section Designs.
11. Drainage, Sedimentation, Erosion Control Plans.
12. Traffic Control/Detour Plans.
13. Street Improvement Construction Plans.
14. Drainage Improvement Plans.
15. Contract Special Provisions.
16. Detailed Construction Schedules.
17. Detailed Quantity and Cost Estimates.
18. Contract Bid Proposals.
19. Utility Coordination.
20. Best Management and Pollution Prevention Practices Plans.
21. Revegetation Plans.
22. Habitat Mitigation and Monitoring Plans.
23. Landscaping Plans.
24. Construction Staking.
25. Bid and Construction Assistance.

Standards

1. AASHTO Policy on Geometric Design of Highways and Streets (2004)
2. Caltrans Highway Design Manual
3. Caltrans Traffic Manual
4. California Manual on Uniform Traffic Control Devices
5. Caltrans Project Development Manual
6. Caltrans and FHWA Environmental Guidelines & Manuals
7. Caltrans Drafting Manual
8. Caltrans CADD Manual
9. Caltrans Ready To List Guide
10. Caltrans Survey Manual and Land Surveyor's Act
11. Caltrans Bridge Design Specifications
12. Caltrans Memo to Designers
13. Caltrans Seismic Design Criteria
14. Caltrans Standard Plans
15. Caltrans Standard Specifications
16. Caltrans Local Assistance Procedures Manual
17. Caltrans Local Assistance Program Guidelines
18. Standard Specification for Public Works Construction "Greenbook"
19. Standard Drawings for Public Works Construction "Greenbook"
20. FHWA-Local and Rural Road Safety Program
21. FHWA-Systemic Safety Project Selection Tool
22. California's Strategic Highway Safety Plan (SHSP)

Scope of Services Detail

Task A - General Administration / Project Management

- Administer pre-project kick-off meeting.
- Monthly Meetings
- Plan of Action
- Budgeting
- Cost Accounting
- Scheduling
- Progress Reports
- Contract Administration
- Project Development Team

Task B – Planning, Designing, Specification, Estimates, and Project Development

- **Research and Data Collection**
 - a. Review and implement the Awarded ATP Grant.
 - b. Review and evaluate existing data
 - c. Review current traffic, speed, pedestrian and bicycle counts
 - d. Conduct field survey to determine proposed traffic signal improvements
 - e. Conduct field survey to determine ADA compliance
 - f. Collect As-Built Plans and concept plans
- **Permits**
Prepare and submit any and all permits required.
- **Design Surveys**
Perform all surveying need to design, construct and complete the project.
- **Design**
Create engineering, traffic, drainage, and striping plans
- **Planning Studies**
- **Environmental Studies and submittals**
- **Technical Reports**
- **Traffic Data**
 - a. Traffic counts
 - b. Turning movements

Task C – Deliverables

- Environmental Reports and Documents.
- Environmental Approvals
- Plans, Specifications, and Estimates
- Traffic Counts including Pedestrian and Bicycle Counts.
- Traffic Speed Counts.
- Traffic Turning Counts.
- Traffic Timing Schedule and Reports
- Traffic Signal Coordination Plan

Questions and Answers

Questions: 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:**

Chris Heldreth
City of Barstow
Community Dev. Director
220 East Mountain View Street
Barstow, CA 92311
(760)255-5121/5156
FAX (760)256-1750
cheldreth@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, October 3, 2024. 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.

FORMAT AND CONTENT OF THE REQUEST FOR PROPOSALS(RFP)

To respond to the Request for Proposals (RFP), submit 1 original and Four (4) copies of your RFP on or before the submission deadline. The RFP may not exceed 40 double-sided pages, exclusive of charts, graphics, required forms, appendix, resumes, and sample PS&E package. 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 summarizing the key points of the statement (2 pages maximum).
- Description of Firm – A description of the firm’s organizational structure, the jurisdiction in which the firm is organized, and date of such organization. In addition, provide a brief description of projects of similar nature to those described in this RFP as well as projects/clients where consultant has performed as an extension of staff.
- Authorized Representative – The name, address, telephone number, facsimile, and email address of the person authorized to represent the firm with respect to all notices, discussions, and other communication relating to this RFP, and to any negotiations relating to the contract.
- Staffing – 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. Resumes should be included for all key individuals as an appendix to the submittal.

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- References – A list of references for the firm and subconsultants, including the names, address, and telephone numbers of recent clients (preferably other public agencies), and a listing of the specific projects, date, and cost of project construction, and key individuals that participated in them. Include the dollar value related to the participation. Identify how much experience the firm and subconsultant has had with public agencies, and preparing bid packages funded through the Active Transportation Program (ATP).
- Scope – 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.
- Pre-Award Audit – The Consultant will indicate if and when they have been through a Caltrans pre-award audit procedure, and the outcome of the audit(s).
- Sample PE Package – Include, as an appendix to the RFP, a recent bid package prepared by your firm, and advertised for construction. The package should consist of reduced plans, specifications, special provisions, and itemized Engineer’s Estimate. Indicate the successful low bid amount for project construction, the dollar amount, description of any change order work, and the percentage of design work done by your firm on the project. A copy of the sample PE package shall be included with each RFP copy of electronic format.

Required Attachments

1. Exhibit 10-I “*Notice to Proposer DBE Information*”
2. Exhibit 15-H - “*DBE information-Good Faith Efforts*”
3. Acknowledgement Receipt of Addendum(S)
4. Resumes – In the appendix, the firm shall include resumes for all key personnel, the specific projects and roles of the individuals, specialty licenses, certificates or relevant training. List all similar work.
5. Sample PE Package (as described in previous section)

Schedule

The contracts are intended to be issued as soon as possible. A tentative schedule of the events follows:

- RFP is issued by the City, September 16, 2024
- Deadline for receipt of Questions, October 3, 2024 at 4:00 p.m.
- Registration as proposer, October 3, 2024 at 4:00 p.m.
- RFPs due October 16, 2024 at 4:00 p.m.
- Consultant interviews may be conducted.
- City evaluates RFPs and establishes a shortlist of consultants who are considered to be best qualified to perform the work. City notifies each consultant that submitted an RFP of the results of the review.
- Project specific RFP will be issued by the City to the most qualified consultants.
- City may allow for clarification of the RFP by inviting submittal of written questions and/or by conducting a proposer’s conference
- City evaluates proposals, interviews the three or more highest ranked consultants, and develops a final ranking to identify the highest ranked consultant. City notifies each consultant that submitted proposal of the results of the review.
- Accepted firms will be required to submit summary sheets which detail the billing rates for each firm’s key individuals, overhead rates for other positions, and other costs. Include any and all

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other costs for office, vehicle, per diem, etc. This material will not be a basis for selecting consultants.

- The actual schedule for City approval and contract execution will be determined by project requirements.

Reservations or Rights by the City

The City reserves the right to postpone selection for its own convenience, to withdraw this RFP at any time, to reject any RFP without indicating a reason for such rejection, or to negotiate with any or none of the respondents. As a function of the negotiation process, the City reserves the right to remedy technical errors, modify the published scope of services, and approve or disapprove the use of all subconsultants. In addition, this RFP does not commit the City to negotiate a contract. The issuance of this RFP does not constitute an agreement by the City that any subsequent selection processes will occur, or that any contract will be entered into by 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.

Important Note: The successful Proposer will be required to enter into a contractual agreement, inclusive of insurance requirements, with the City of Barstow in accordance with the standard Professional Service Agreement – Attachment “A” hereto and contract language as specified by Caltrans. Please note that Exhibit “A” of Attachment “A” is intentionally not complete in the attached document. The exhibit will be negotiated with the selected firm and will appear in the final Professional Services Agreement executed between the parties.

Failure or refusal to enter onto an Agreement as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for an annulment of the award. If the highest ranked Proposer refuses or fails to execute the Agreement, the City may, at its sole discretion, enter negotiations with and award the Contract to the second highest ranked Proposer, and so on.

Performance of Service

Task Orders – Performance by as-needed services consultants will be by project. At the time a consultant is selected for a specific project, the Consultant will be asked to prepare an estimate of the various jobs listed by project specific task order.

Consultant Selection Process

A. The selected consultant will be evaluated on the following:

Criteria	Max Points	Rating
Understanding of the work to be done	25	
Experience with similar kinds of work	15	
Quality of staff for work to be done	10	
Capability of developing innovative or advance techniques	15	
Financial responsibility	10	
Demonstrated Technical Ability	15	
Knowledge of the City of Barstow	10	

B. Selection of Consultants

The RFP should be based on the replacement of the First Avenue Bridge over the Mojave River. Although the general nature of the construction projects indicated the expertise which is needed, each firm shall choose a team that demonstrates both professional capabilities and prior experience to provide the services listed in this RFP, and shall prepare a written statement that complies with the requirements of the terms and conditions of this RFP.

The selection committee will evaluate RFPs. The committee establishes a shortlist of consultants who are considered to be best qualified to perform the contract work. Consultants will be notified of the results of the review

The selection committee will evaluate proposals, interview the three or more highest ranked consultants, and develop a final ranking of the highest ranked consultant. Consultants will be notified of the results of the review.

C. Cost and Contract Negotiations

Contract negotiations will begin with the highest ranking consultant to set hourly billing rates and classifications, overhead rates and other compensation. In addition, Consultants will be expected to agree to accept City contract agreement.

City approval and contract execution is to be determined by project requirements.

D. Final Selection

Final selection of the consultant for any project will be made by the City Manager, based on the selection committee’s evaluation of their proposal, the results of the possible oral interview, and terms of contract language negotiated with the City.

Disadvantaged Business Enterprises (DBE) Requirements

The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The provisions of Title 49, Part 23, Code of Federal Regulations (49 CFR 23) require that DBE’s have an opportunity to participate in contracts funded through the Federal Highway Administration (FHWA).

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General Conditions and Requirements

1. The Engineer shall carry out the instructions as received from the City Engineer and / or the City Project Manager and shall cooperate with City, State, FHWA, and any other agencies working on the project.
2. It is not the intent of the foregoing paragraph to relieve the Engineer of professional responsibility during the performance of this contract. In those instances, where the Engineer believes a better design or solution to the problem is possible, the Engineer shall promptly notify the City of these concerns, together with the reasons therefore.
3. The Engineer has total responsibility for the accuracy and completeness of all data, plans, and estimates prepared for this project and shall check all such material accordingly. While the City may review such data, plans, and details for quality, completeness and conformity with Caltrans Design Standards, the California Environmental Quality Act (CEQA), and National Environmental Policy Act (NEPA). the responsibility for accuracy and completeness of such items remains solely that of the Engineer. The Engineer or the Engineer's subcontractors shall not incorporate in the design materials or equipment of single or sole source origin without written approval of the City.
4. The plans, designs, estimates, calculations, reports, and other documents furnished under this Scope of Work shall be of a quality acceptable to the City Engineer and or the Project Manager. The criteria for acceptance shall be a product of neat appearance, well-organized, technically and grammatically correct, checked, and having the preparer and checker identified. The minimum standard of appearance, organization, and contents of the drawings shall be that of similar types produced by Caltrans.
5. The page identifying preparers of engineering reports, the title sheet and each sheet of plans, shall bear the professional seal, certificate number, registration classification expiration date of the certificate, and signature of the professional engineer(s) responsible for their preparation.
6. The Engineer shall provide the services for the Project in close liaison with the City.
7. To ensure understanding of contract objectives, meetings between City and the Engineer will be held monthly or as often as deemed necessary by the City Project Manager. All work objectives, the Engineer's work schedule, the terms of the contract, and any other related issues will be discussed and any issues or problems resolved.
8. The Engineer may establish direct contact with governmental regulatory and resource agencies and others for the purpose of obtaining information, expertise, and assistance in developing baseline data and resource inventories. The Engineer shall maintain a record of all such contacts and shall transmit copies of those records to the City on a regular basis.
9. The City will retain responsibility for all final consultation, both informal and formal, with State and Federal agencies regarding project mitigation and compensation proposals.
10. The Engineer shall comply with OSHA regulations regarding safety equipment and procedures, safety instruction issued by the City, and the safety provisions included in the Caltrans Survey Manual.
11. Surveys performed by the Engineer shall conform to the requirements of the Land Surveyors Act and Caltrans Survey Manual. In accordance with the Act, "responsible charge" for the work shall reside with a pre-January 1, 1982, Registered Civil Engineer or a Licensed Land Surveyor, in the State of California.
12. Where the Engineer is required to prepare and submit studies, reports, plans, etc., to the City as required by this Scope of Work, these shall be submitted in draft as scheduled and the opportunity provided for the City to direct revisions, prior to final submission.
13. All elements of the project shall be considered for least cost alternative analysis throughout the preliminary design of the project.

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: mhernandez@barstowca.org. All RFI's must also be submitted via email to the stated email address above.

Register before October 3, 2024 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

ACKNOWLEDGEMENT RECEIPT OF ADDENDUM(S)

RFP#: ENG-2024-200

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 A - Example Contract Language

SAMPLE CONTRACT 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 CONTRACT LANGUAGE IS ONLY SUGGESTED LANGUAGE. MODIFY AS RECOMMENDED BY YOUR OWN LEGAL STAFF AND TO FIT YOUR PARTICULAR REQUIREMENTS AND PROJECT.

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A&E SAMPLE CONTRACT LANGUAGE

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ARTICLE I INTRODUCTION

- A. This contract 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 *(NAME OF STATE)*

The Project Manager for the "CONSULTANT" will be *(NAME)*

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

The Contract Administrator for LOCAL AGENCY will be (NAME)

- B. The work to be performed under this contract is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal dated *(DATE)*. The approved CONSULTANT's Cost Proposal is attached hereto (Attachment I) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this contract, this contract shall take precedence.
- C. CONSULTANT agrees to indemnify and hold harmless LOCAL AGENCY, its officers, agents, and employees from any and all claims, demands, costs, or liability arising from or connected with the services provided hereunder due to negligent acts, errors, or omissions of CONSULTANT. CONSULTANT will reimburse LOCAL AGENCY for any expenditure, including reasonable attorney fees, incurred by LOCAL AGENCY in defending against claims ultimately determined to be due to negligent acts, errors, or omissions of CONSULTANT.
- D. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY.
- E. Without the written consent of LOCAL AGENCY, this contract is not assignable by CONSULTANT either in whole or in part.
- F. No alteration or variation of the terms of this contract shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- G. 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 STATEMENT OF WORK

(INSERT APPROPRIATE STATEMENT OF WORK INCLUDING A DESCRIPTION OF THE DELIVERABLES)

- 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 contract 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 contract 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 Chapter 6, “*Environmental Procedures*” in the LAPM, 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 plots 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 or another agency, or government that are to be made available to CONSULTANT are referred to in the contract. Any other assistance or services to be furnished to CONSULTANT are to be stated clearly.

F. Conferences, Visits to Site, Inspection of Work

The contract provides for conferences as needed, visits to the site, and inspection of the work by representatives of the state, or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.

G. Checking Shop Drawings

For contracts requiring the preparation of construction drawings, make provision for checking shop drawings. Payment for checking shop drawings by CONSULTANT may be included in the contract 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 contract together with the method of payment for such services.

I. Documentation and Schedules

Contracts 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 contract objectives.

J. Deliverables and Number of Copies

The number of copies of papers or documents to be furnished, such as reports, brochures, sets of plans, specifications, or Right of Way plots is specified. Provision may be made for payment for additional copies.

ARTICLE III CONSULTANT'S REPORTS OR MEETINGS

(Choose either Option 1 or Option 2)

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

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the 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 contract.

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

- 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 IV PERFORMANCE PERIOD (Verbatim)

(A time must be set for beginning and ending the work under the contract. 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 contract. 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 contract.)

(Choose either Option 1 or Option 2)

(Option 1 - Use paragraphs A & B below for standard and on-call contracts)

- A. This contract shall go into effect on (DATE), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The contract shall end on (DATE), unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

(Option 2 - Use paragraph C below in addition to paragraphs A & B above for on-call contracts)

- 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 contract, the terms of the contract shall be extended by contract amendment.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS (Verbatim)

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

(Option 1 - Use paragraphs A through J below for Actual Cost-Plus-Fixed Fee contracts. Use Exhibit 10-H, Example #1 for Cost Proposal Format)

- A. The method of payment for this contract 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 contract 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 contract is required, the contract time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.
- B. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$(AMOUNT). The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.
- C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- D. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of 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 the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.
- F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.
- G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 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 contract 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 of this contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT'S work. Invoices shall be mailed to LOCAL AGENCY'S Contract Administrator at the following address:

(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)

(ADDRESS)

- H. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$(Amount).
- I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.

For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

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

(Option 2 - For Cost per Unit of Work contracts, 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-H, Example #3 for 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 \$(Amount) per approved Cost Proposal. This rate shall be for a fully equipped vehicle, with radio and flashing yellow light (if needed), as specified in Article II of this contract.

The specified rate to be paid for equipment shall be, as listed in Attachment (Insert Attachment Number).

- C. The method of payment for this contract, 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 contract 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 contract is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I," shall not be exceeded unless authorized by contract amendment.
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.

(Option 3 - Use paragraphs A through Q for Specific Rates of Compensation contracts [such as on-call contracts]. Use Exhibit 10-H, Example #2 for Cost Proposal Format)

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANTs Cost Proposal (Attachment Number). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the 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 contract 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 Cost Proposal.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.
- G. 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 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 contract 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 contract.
- 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, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 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 contract number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract, must be reimbursed by CONSULTANT prior to the expiration or termination of this contract. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

(NAME OF LOCAL AGENCY/ NAME OF CONTRACT ADMINISTRATOR)

(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 Contract.
- 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 contract amendment.
- N. If the 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 this Agreement and may not exceed the scope of work under this Agreement.

P. The total amount payable by LOCAL AGENCY for all Task Orders resulting from this contract shall not exceed \$ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this contract through Task Orders.

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

(Option 4 - Use paragraphs A through F below for lump sum contracts. Use Exhibit 10-H, Example #1 for Cost Proposal Format)

- A. The method of payment for this contract 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 II Statement of Work of this contract. 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 contract 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 the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.
- C. CONSULTANT shall not commence performance of work or services until this contract 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 contract.
- D. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 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 Cost Proposal and shall reference this contract 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 of this contract. The final invoice should be submitted within 60-calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)

(ADDRESS)

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

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

ARTICLE VI TERMINATION (Verbatim)

- A. LOCAL AGENCY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost

of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

- C. The maximum amount for which the LOCAL AGENCY shall be liable if this contract is terminated is _____ dollars.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS (Verbatim)

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE VIII RETENTION OF RECORDS/AUDIT (Verbatim)

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

ARTICLE IX AUDIT REVIEW PROCEDURES (Verbatim)

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than 30 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 contract.

(The following AUDIT CLAUSE must be inserted into all contracts of \$150,000 or greater)

- D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit

work paper review. If selected for audit or review, the contract, 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, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager 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 contract 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, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

(The following AUDIT CLAUSE must be inserted into all contracts of \$3,500,000 or greater).

- E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by Caltrans' Audit and Investigation (Caltrans). Caltrans, 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 contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.
1. During a Caltrans' review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans 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 Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at a provisional ICR until a FAR 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 Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I. Provisional rates will be as follows:
 - a. If the proposed rate is less than 150% - the provisional rate reimbursed will be 90% of the proposed rate.
 - b. If the proposed rate is between 150% and 200% - the provisional rate will be 85% of the proposed rate.
 - c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the proposed rate.
 2. If Caltrans is unable to issue a cognizant letter per paragraph E.1. above, Caltrans 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. Caltrans 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 Section E, or if Caltrans 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 provisional 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 provisional ICR will become the actual and final ICR for reimbursement purposes under this contract.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) Caltrans approves or rejects the original or revised independent CPA-audited ICR; (2) all

work under this contract has been completed to the satisfaction of LOCAL AGENCY; and, (3) Caltrans has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO local agency no later than 60 days after occurrence of the last of these items.

The provisional ICR will apply to this contract and all other contracts executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING (Verbatim)

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) 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 CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.
- D. Any subcontract in excess of \$25,000 entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

ARTICLE XI EQUIPMENT PURCHASE (Verbatim)

- 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 \$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 Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the contract, or if the contract 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.” 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

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

ARTICLE XII STATE PREVAILING WAGE RATES (Verbatim)

(Choose either Option 1 or Option 2)

(Option 1 - For contracts where a portion of the proposed work to be performed are crafts affected by state labor laws, use paragraphs A and B)

- A. CONSULTANT shall comply with the State of California’s General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(Option 2 - Use only paragraph A below when all of the proposed work in the contract is performed by crafts not affected by state labor laws or are not contemplated for use)

- A. The State of California’s General Prevailing Wage Rates are not applicable to this contract.

Note: The Federal “Payment of Predetermined Minimum Wage” applies only to federal-aid construction contracts.

ARTICLE XIII CONFLICT OF INTEREST (Verbatim)

- A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.
- B. 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 contract.
- C. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

(Choose either Option 1 or Option 2 if appropriate)

(Option 1 - Use paragraphs D & E below with paragraphs A, B and C above for PS&E contracts only)

- D. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

(Option 2 - Use paragraphs D, E & F below with paragraphs A, B and C above for Construction Contract Administration contracts only)

- D. CONSULTANT hereby certifies that neither CONSULTANT, its employees, nor any firm affiliated with CONSULTANT providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint- ownership, or otherwise.
- E. CONSULTANT further certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT, will bid on any construction subcontracts included within the construction contract. Additionally, CONSULTANT certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.
- F. Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this contract shall have provided services on the design of any project included within this contract.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (Verbatim)

CONSULTANT warrants that this contract 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 the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract 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 (Verbatim)

(Include this article in all contracts where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the contract; delete this article and re-number the notification article which follows.)

- A. 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 CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

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 federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; 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 Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

ARTICLE XVI STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. 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.

(For contracts with Federal funding, add paragraphs C & D)

- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the

discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to LOCAL AGENCY.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

ARTICLE XVIII FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
- B. This contract is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this contract. In addition, this contract 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 contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to void the contract under the 30-day termination clause pursuant to Article VI, or by mutual agreement to amend the contract to reflect any reduction of funds.

ARTICLE XIX CHANGE IN TERMS

- A. This contract 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 contract without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XX DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this contract is _____%. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract. 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. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT 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, Part 26 in the award and administration of US DOT-assisted agreements. Failure by 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 LOCAL AGENCY deems appropriate.
- D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).
- F. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the, contract is commensurate with the work it is actually performing, and other relevant factors.
- G. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- H. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- I. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- J. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of

the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory “Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants” is submitted to the Contract Administrator.

- K. If a DBE subconsultant is decertified during the life of the contract, 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 Contract, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY’s Contract Administrator within 30 days.

ARTICLE XXI CONTINGENT FEE

CONSULTANT warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract 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 contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXII DISPUTES

(Choose either Option 1 or Option 2)

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

- A. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY’s Contract Administrator and (Insert Department Head or Official), who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than 30 days after completion of all work under the contract, 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 contract.

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

- B. Not later than 30 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 XXIII INSPECTION OF WORK

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

ARTICLE XXIV SAFETY

(Use on all contracts regardless of funding source)

- 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 Section 591 of the Vehicle Code, 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.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.
(Add to all contracts, 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 California Labor Code Sections 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 feet or deeper.

ARTICLE XXV INSURANCE

(Choose either Option 1 or Option 2)

(Option 1 - for Contracts 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 30 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 contract 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 contract. In the event said insurance coverage expires at any time or times during the term of this contract, CONSULTANT agrees to provide at least thirty (30) 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 contract, 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 contract upon occurrence of such event.

(Option 2 - For Contracts 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 XXVI OWNERSHIP OF DATA

- A. Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in LOCAL AGENCY; and no further agreement will be necessary to transfer ownership to LOCAL AGENCY. CONSULTANT shall furnish LOCAL AGENCY all necessary copies of data needed to complete the review and approval process.
- B. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.
- C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by LOCAL AGENCY of the machine-readable information and data provided by CONSULTANT under this contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by LOCAL AGENCY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as many be authorized in writing by CONSULTANT.
- 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.
- F. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

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 contract.
- 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 contract in order to resolve the construction claims.
- D. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

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 contract, 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 contract, 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 contract or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.
(For PS&E contracts add paragraph F, below, to paragraphs A through E, above)
- F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity other than LOCAL AGENCY.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 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 contract record.

ARTICLE XXXI RETENTION OF FUNDS

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
(Local agency to include either B, C, or D below; delete the other two)
- B. No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual,

administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

- C. No retainage will be held by the Agency from progress payments due the prime consultant. Any retainage held by the prime consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.
- D. The Agency shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over thirty (30) days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

ARTICLE XXXII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this contract 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:

 (CONSULTANT)
 _____, Project Manager
 (NAME)

 (ADDRESS)

LOCAL AGENCY:

(LOCAL AGENCY)

(NAME), Contract Administrator

(ADDRESS)

ARTICLE XXXIII CONTRACT

The two parties to this contract, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this contract 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 contract as evidenced by the signatures below.

ARTICLE XXXIV SIGNATURES

(Name of CONSULTANT)

(Name of LOCAL AGENCY)

(Signature)

(Signature)

(Name of Signer)

(Name of Signer)

DATE: _____