



REQUEST FOR QUALIFICATIONS

FOR

ON-CALL PROFESSIONAL ENGINEERING SERVICES FOR FEDERAL AND STATE FUNDED PROJECTS

City of California City
21000 Hacienda Blvd.
California City, CA 93505

Date Released: April 30, 2025

Proposals are due prior to 3:00 PM: May 29, 2025

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ON-CALL PROFESSIONAL ENGINEERING SERVICES FOR FEDERAL AND STATE FUNDED PROJECTS

SECTION 1. REQUEST FOR QUALIFICATIONS SUMMARY

A. NOTICE TO PROPOSERS

Request for Qualifications (RFQ) project information summary.

Issue Date	April 29, 2025
Due Date and Time for Proposals	May 29, 2025 at 3:00 PM
Contract Manager	Joe Barragan, Public Works Director, pwdir@californiacity-ca.gov (760) 373-7162
Project Name(s)	ON-CALL PROFESSIONAL ENGINEERING SERVICES FOR FEDERAL AND STATE FUNDED PROJECTS
Project Number(s)	VARIOUS
Work Description	General civil, transportation engineering, land surveying, preliminary engineering/design, right of way, environmental services, and construction management/engineering.
Inquiries Deadline	All RFQ questions are due no later than thirteen (13) working days prior to the RFQ due date. Written responses to the inquiries shall be issued no later than seven (7) calendar days prior to the RFQ due date.
RFQ Proposal Submittal	Hand Delivered.
Funding Source(s)	Federal, State, Local
Disadvantaged Business Enterprises (DBE)	The City of California City has calculated a DBE goal of 15% for this contract. The City encourages the participation of DBEs as defined in 49 CFR Part 26, to the fullest extent possible.
Department of Industrial Relations (DIR)	This project is subject to compliance monitoring and enforcement by the California DIR. Prevailing wages are required on the Proposal. The State DIR Director determines the general prevailing wage rates which can be obtained at the DIR website at https://www.dir.ca.gov/ .
All deadline times are 3:00 PM unless otherwise noted. Proposals must be received prior to or on the date due. Proposals received after the due date and time or received at the wrong location are considered nonresponsive and shall be rejected.	

SECTION 2. GENERAL INFORMATION

A. Purpose of Request for Qualifications (RFQ)

The City of California City (hereinafter "City") is soliciting sealed Statements of Qualifications (SOQ) from qualified and experienced firms to provide On-Call Professional Engineering Services for activities associated with Federal and State funded projects, including, but not limited to Federal Highway Administration (FHWA). Additional details and requirements are provided in Section 3 "Scope of Work" of this RFQ.

The City, is awarded several construction and improvement projects every year that are state, and federal funded. In order to comply with local, state and federal regulations and due to limited staffing and expertise, certain services are to be contracted out. The selected consultant will be responsible for providing the City professional services on an as-needed basis (on-call). The Consultant shall only perform work that is assigned or requested in an authorized Task Order. This Contract does not guarantee that a Task Order will be issued.

The Consultant shall provide services to the City including, but not limited to; CEQA/NEPA coordination or compliance documentation, program/project management, feasibility studies, preliminary engineering, design, engineering, surveying (right of way engineering), mapping, landscape architecture, or architectural related services, construction management/engineering, as well as incidental services connected to and for the purpose of development and implementation of Federal-aid, and State funded projects. Successful firm will represent the City at all state, local or federal project audits.

The firm selected must demonstrate experience of federally funded projects administered through Caltrans Local Assistance District 9 and the Local Assistance Procedures Manual.

The City project(s) will require coordination with Caltrans, FHWA, and/or other state, local and federal agencies.

The firm selected must demonstrate experience in providing professional services, and must be exceptionally capable of producing the desired services in a highly professional and cost-conscious manner.

For the purpose of this RFQ, the term "Consultant" and "Firm" and "Proposer" are interchangeable and refer to the qualified firm hired to provide the services.

For the purpose of this RFQ/Agreement, the following definitions shall apply:

OWNER is the City of California City.

PROPOSER is a firm which submits a proposal in response to this RFQ.

CONSULTANT is a firm hired by the City to provide the services described in this RFQ.

LOCAL REGULATORY AGENCY refers to all Sections, Divisions, and Departments of the City of Taft that are charged with the review and approval of the project within the city limits.

STATE REGULATORY AGENCY refers to all State of California agencies that might have jurisdiction over the project design and/or construction.

FEDERAL REGULATORY AGENCY refers to all United States of America federal agencies that might have jurisdiction over the project design and/or construction.

B. Tentative Timeline and Schedule of Events

RFQ Release Date	April 29, 2025
Submission of Questions & Requests for Clarification Due	May 12, 2025
SOQ Submission Deadline	May 29, 2025
Review and Evaluation of SOQ	June 17, 2025
Interviews with finalist firms (<i>if held</i>)/ Cost Negotiation	June 30, 2025
Recommended firm presented to Caltrans for approval	July 8, 2025
Recommended firm presented to City Council for approval	August 12, 2025

The City reserves the right to modify this timeline at any time. Any changes will be issued via Addendum to this RFQ.

C. Disadvantaged Business Enterprise (DBE) Participation

The City of California City has established a DBE Goal of 15% for this Contract. Refer to Attachment 1 – Exhibit 10-I - Notice to Proposers DBE Information.

D. Contract Period

This Scope of Services will include on-call engineering services to the City for projects with Federal- aid, and/or State funds for a period not to exceed five (5) years.

E. Method of Payment

1. Consultant shall be paid based on Specific Rates of Compensation.
2. Specific projects will be assigned to Consultant through issuance of Task Orders.
3. After a project to be performed under this contract is identified by the City; The City 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 the City’s 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 the City and Consultant.
4. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in Consultant’s approved Cost Proposal.
5. The City anticipates to enter into up to twenty (20) task order contracts for performance of the Scope of Services identified in Section 3 of this RFQ. The total amount payable by the City for all Task Order Contracts must not exceed a cumulative maximum total value of Nine Hundred Eighty-Nine Thousand Dollars (\$989,000) (“NTE Sum”). 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. Each time a Task Order is awarded under any of the Task Order Contracts, the City may send written notification to Consultant. The notice will identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that City will not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant must not enter into a Task Order that exceeds the NTE Sum.

6. Any extensions, changes, amendments or contract price revisions are subject to City Council approval. DIR requirements are to be met by the consultant. A copy of the Consultant Agreement is included.

F. Questions and Request for Clarification

Any questions or requests for clarification about this RFQ must be submitted in writing to Joe Barragan – City Public Works Director, at pwdir@californiacity-ca.gov.

For the benefit of all proposers, no questions can be accepted **after 5:00 PM on May 12, 2025**. A summary of any questions received and their responses will be sent to all consultants/agencies who have requested an RFQ. No oral question or inquiry about this RFQ shall be accepted.

SECTION 3. SCOPE OF WORK/SERVICES

This solicitation is not for specific projects, but for specific services. All work performed under this contract will require approval by the City’s Contractor Administrator and issued through a Task Order. A task order shall be requested from the Consultant to identify and refine the scope of services prior to issuing the task orders. The task order shall detail the tasks required for particular projects, schedule, and projected costs. The costs will be based on the specified rates of compensation in the contract. The Contract Administrator shall confer with the consultant to establish the maximum fee, including expenses, for the specific project and to establish the completion date.

A. Sample Scope of Work/Services

Projects and services are unique, and the exact scope of work will vary between services and projects. However, typical professional services for projects might include but not be limited to the following general scope:

1. Project Management

- a.** The City Manager will serve as the contract manager and direct liaison between the Consultant and Caltrans District 9 Division of Local Assistance. The consultant shall be responsible for project management activities throughout the life of the contract and the scope of activities includes but is not limited to, coordinating and being responsible for scheduling meetings, managing the project schedule, preparing and distributing minutes, field reviews, tracking action items for the City and consultant sub-contractors, and preparing all submissions for the City to submit to Caltrans Local Assistance and/or other agencies.
- b.** Due to the fact that many of the City’s current and future projects are funded by Federal and State grants, the selected consulting firm must have excellent knowledge of the requirements of Caltrans’ Local Assistance Procedures Manual requirements.
- c.** Preliminary Engineering Phase Authorization - Consultant shall prepare the Request for Authorization to Proceed with Preliminary Engineering package using procedures outlined in the Caltrans Local Assistance Procedures Manual.
- d.** Prepare and submit progress invoices to Caltrans for reimbursement.

2. Environmental Compliance

- a.** Coordinate with Caltrans Dist. 6 and schedule a field review of the site, as needed.
- b.** Perform the site review, survey and study. Prepare and supply all reporting, presentations, documents, and mitigation requirements, etc. necessary to meet current NEPA environmental compliance requirements. **Note: *Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion.*** City staff will prepare the CEQA document.
- c.** Coordinate with Caltrans Dist. 9 to determine if special studies will be required, i.e. cultural, archeological etc.
- d.** Prepare, submit, correct, edit and add information for the Exhibit 6-A Preliminary

Environmental Study (PES) document and Area of Potential Effects (APE) map, as necessary. ***Contracting City is not obligated to proceed with final design for any alternative, all reasonable alternatives will be evaluated and given appropriate consideration, and the firm may not proceed with final design until the relevant CEQA/NEPA decision documents have been issued (e.g., CE, FONSI, or ROD).***

3. Preliminary Engineering

- a. Scope includes: Civil Engineering / Architectural / Field Survey / Soils & Materials Testing
- b. Coordinate with City Manager, Public Works Director, City Project Coordinator and/or Street Superintendent for initial concept and direction.
- c. Surveys and Mapping – review aerial photos, mapping and perform preliminary surveying necessary for preliminary engineering, design, cost estimates, and the level of environmental clearance. The scope of comprehensive base mapping and surveying includes but is not limited to Control Surveys, Aerial Photogrammetry, Limited Design Level Topographic Surveys, Right-of-Way Retracement, and a Record of Survey.
- d. Prepare a right-of-way certification per Caltrans LAPM Exhibit 13-A or 13-B, as applicable.
- e. Preliminary Engineering Studies – Develop general project locations and design concepts and related activities needed to establish the parameters for final design such as Geometrics, Hydraulics, Geotechnical, Bridge, Landscape Architecture, Traffic Operations, Electrical, ITS Elements, etc.
- f. Develop concept and design drawings for submission to regulatory or funding bodies for approvals including, but not limited to: FHWA, and their corresponding California State agencies.
- g. Submit preliminary design and preliminary construction cost estimate to the City for review and comment.
- h. Prepare exhibits, renderings, drawings and prepare presentations to City Staff and/or City Council.
- i. Utility Coordination – Submit improvement plans to utility companies in accordance with their requirements. Coordinate utility relocations, if any, including relocation of utility poles, as needed.
- j. Provide geotechnical evaluations and recommendations services with field investigation borings, field samples, lab testing, as needed, for pavement design section, driveways, curb & gutter, cross gutters, footings, slabs, etc.
- k. Provide civil engineering and/or architectural design for complete roadway geometric design, demolition, asphalt and base improvements, drainage, grading, curb, gutter, sidewalks, cross gutters, ADA access ramps, street signage, street striping/markings, electrical improvements, landscaping, irrigation, waste water, sewer improvements, water improvements, site improvements, structure/bridge design, building design, etc.
- l. On behalf of the City, apply for and obtain all required approvals and permits from all governing public agencies for the construction of the project.
- m. Coordination with Adjacent Properties – Coordinate with adjacent property to establish driveway locations and other modifications required in front of their property such as fence relocations, mailbox relocation, or tree removal.
- n. Assist City in applying for and obtaining utility services and/or relocation of existing utilities necessary for project(s) to be constructed and functional.
- o. Prepare construction plans, specifications and bidding documents for construction. (utilizing the Caltrans Standards and/or AASHTO Geometric Design guidelines, current edition). The Construction Plans, Specifications, Special Provisions and Bid Documents shall be adequate for obtaining construction bids in accordance with all applicable regulations and requirements of the pertinent Local/Federal/State funding entities.
- p. Prepare a final detailed Construction Cost Estimate for the project based on the final design report. The Preliminary Construction Cost Estimate shall be an itemized estimate, including all of the components necessary for the complete construction of the project.
- q. The CONSULTANT/engineer shall sign all Plans, Specifications and Estimate (PS&E) and engineering data furnished under the AGREEMENT including registration number.

- r. Provide an electronic copy of the final approved plans and specifications. The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications shall be provided in both Microsoft Word format and PDF format.
- s. Construction Phase Authorization - Consultant shall prepare the Request for Authorization to Proceed with Construction package to advance project to construction using procedures outlined in the Caltrans Local Assistance Procedures Manual.

4. Bid Process

- a. Assist the City in all aspects of the bidding process with construction and engineering firms, including but not limited:
 - 1) Distribute plans and specifications to Contractors and Plan Rooms
 - 2) Keep Plan holders list
 - 3) Prepare addendums
 - 4) Perform design revisions, additions, answers to questions, RFI's, etc.
 - 5) Attend and conduct pre-bid and site walk meetings
 - 6) Review three lowest bids and their good faith DBE efforts
 - 7) Prepare bid summary
 - 8) Verify low bidder's qualifications
 - 9) Make recommendations for awarding the construction contract

5. Construction Engineering/Management/Inspection/ Soils and Materials Testing:

- a. Provide Construction Engineering/Management and/or inspection services.
- b. Review and approve contract's shop drawings, schedules, insurance, submittals and make recommendation for Notice to Proceed.
- c. Coordinate with utility companies for connections, service, relocations, etc.
- d. Perform construction surveys/staking as needed.
- e. Perform contract administration paperwork, including, but not limited to, review contractor's payment requests and make recommendation for payment, conflict resolution, check certified payroll, releases, bonds, final pay requests certificate of completion, etc.
- f. Investigate proposed contract change orders and submit background information to the City for a decision, if justified, and prepare necessary drawings and documents for approval.
- g. Perform inspection services, RE's daily reports, materials, subcontractors, equipment, manpower, weather, activities, etc.
- h. Responsible for ensuring that all work is built to standards defined by the contract documents.
- i. Perform materials and soils testing per City's Quality Assurance Program. Materials testing services includes:
 - Engage third-party testing and inspection firm.
 - Sampling and testing of soils, asphalt concrete, concrete, steel, and other construction materials.
 - Evaluation of results and furnishing of testing reports.
 - Additional testing as applicable to ensure project expectations are met. (i.e., quality assurance testing).
- j. Prepare and maintain as-built drawings and construction documentation for review by any auditing City.
- k. Prepare the final punch list and oversee punch list item resolution.
- l. Project Close Out.
- m. Represent the City at all local, state or federal project audits.

B. Deliverables

As agreed upon by the City and consultant in a Task Order for each project.

C. Schedule

As agreed upon by the City and consultant in a Task Order for each project.

SECTION 4. STATEMENT OF QUALIFICATIONS

A. Submission Requirements

These guidelines are provided for standardizing the preparation and submission of the SOQ's by all consultants. The intent of these guidelines is to assist consultants in preparation of their proposals, to simplify the review process, and to help assure consistency in format and content. Proposals should be prepared in a concise and economic manner. Proposals shall be prepared on 8 ½" x 11" paper in at least 11-point font. Use of 11" x 17" foldout sheets for large tables, charts, or diagrams is permissible but should be limited.

SOQ's shall contain the following information in the order listed:

1. Introductory Letter

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

City of California City
Joe Barragan, Public Works Director
21000 Hacienda Blvd.
California City, CA 93505

The letter shall be on Consultant letterhead and include the Consultant's contact name, mailing address, telephone number, facsimile number, and email address. The letter shall address the Consultant's understanding of the services being requested and any other pertinent information the Consultant believes should be included. All addendums received must be acknowledged in the transmittal letter.

The letter shall be wet-signed in blue ink by the individual authorized to bind the Consultant to the proposal.

2. Organization and Approach

The consultant's staff working on this project shall be qualified professional staff and shall have the necessary experience, expertise and licenses to complete the scope of work and satisfy all the requirements as described in this RFQ and shall include the following information:

1. Background of your firm.
2. Name of project manager who is a Registered Civil Engineer in the State of California.
3. Identification of sub-consultant(s) and respective project manager(s) assigned to the project.
4. An organization chart depicting the relationships between the prime consulting firm's team members and the sub-consultants. The organization chart shall include every person whose resume is submitted.
5. Describe your project and management approach. Provide a detailed description of how the team and scope of work will be managed.
6. Describe the roles of key individuals on the team. Provide resumes for all key team members. Resumes shall show relevant experience, for the Scope of Work, as well as the length of employment with the proposing Consultant. Key members, especially the Project Manager, shall have significant demonstrated experience with this type of scope of work.

3. Consultant Information, Qualifications & Experience

The City will only consider submittals from Consultants that demonstrate they have successfully completed comparable projects. These projects must illustrate the quality, type, and past performance of the project team. Submittals shall include a detailed description of a minimum of three (3) projects

within the past five (5) years which include the following information:

1. Contracting City
2. Contracting City Project Manager
3. Contracting City contact information
4. Contract amount
5. Funding source
6. Date of contract
7. Date of completion
8. Consultant Project Manager and contact information
9. Project Objective
10. Project Description
11. Project Outcome

4. Scope of Work

1. Include a detailed Scope of Work Statement describing all services to be provided.
2. Describe project deliverables for each phase of your work.
3. Describe your cost control and budgeting methodology for this project.

5. Certificates of Insurance

A statement of proposer's current insurance coverage signed by a company official. **Do not** submit a certificate of insurance in lieu of this statement. The City requires a minimum of Two Million Dollars (\$2,000,000) Professional Liability Insurance, and General Liability Insurance; One Million Dollars (\$1,000,000) Automobile Liability Insurance, and Workers' Compensation Insurance. If the current coverage does not meet the City's minimum requirements, a statement of proposer's ability and intent to obtain the required coverage must be included.

6. Conflict of Interest Statement

Include a statement describing any potential or known conflict of interest regarding this proposal and/or the City of California City, or affirm that you do not have a conflict of interest.

Throughout the term of the awarded contract, any person, firm or subsidiary thereof who may provide, has provided or is currently providing Design Engineering Services and/or Construction Engineering Services under a contractual relationship with a construction contractor(s) on any local project listed in this Scope of Work must disclose the contractual relationship, the dates and the nature of the services. The prime consultant and its subconsultants shall also disclose any financial or business relationship with the construction contractor(s) who are working on the projects that are assigned for material Quality Assurance services through task orders on the contract.

Similar to the disclosures regarding contractors, all firms are also required to disclose throughout the term of the awarded contract, any Design Engineering services including claim services, Lead Project Management services and Construction Engineering Services provided to all other clients on any local project listed in this Scope of Work.

In addition to the disclosures, the Consultant shall also provide possible mitigation efforts, if any, to eliminate or avoid any actual or perceived conflicts of interest.

The Consultant shall ensure that there is no conflict before providing services to any construction contractor on any of the City's projects' listed in this Scope of Work. The submitted documentation will be used for determining potential conflicts of interest.

If a Consultant discovers a conflict during the execution of an assigned task order, the Consultant must immediately notify the Contract Manager regarding the conflicts of interest. The Contract Manager may terminate the Task Order involving the conflict of interest and may obtain the conflicted services in any way allowed by law. Failure by the Consultant to notify the Contract Manager may be grounds for

termination of the contract.

7. Litigation

Indicate if the proposing Consultant was involved with any litigation in connection with prior projects. If yes, briefly describe the nature of the litigation and the result.

8. Contract Agreement

Indicate if the proposing Consultant has any issues or needed changes to the proposed contract agreement included as **Attachment 2**.

The Consultant shall provide a brief statement affirming that the proposal terms shall remain in effect for ninety (90) days following the date proposal submittals are due.

A contract will not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 31 and 2 CFR Part 200.

9. Federal-Aid Provisions

The proposing Consultant's services are federally funded, which necessitate compliance with additional requirements. Special attention is directed to **Attachment 1** – Local Assistance Procedures Manual Exhibit (LAPM) 10-I, Notice to Proposers DBE Information. The proposing Consultant shall complete and submit the following forms with the proposal to be considered responsive. These forms and instructions are provided for the proposer in **Attachment 1**.

- Local City Proposer DBE Commitment (Consultant Contracts); (LAPM 10-O1).
The City has established a DBE Goal of 15% for this Contract.
- DBE Information - Good Faith Effort (LAPM 15-H) – Required only if DBE goal is not achieved. It is recommended that proposer prepare and submit a GFE irrespective of meeting the DBE goal.
- Disclosure of Lobbying Activities (LAPM 10-Q).

This solicitation is financed in whole or in part and therefore subject to Title 49, Code of Federal Regulations, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". To ensure equal participation for Disadvantaged Business Enterprise (DBE) groups specified in 49 CFR 26.5, a DBE participation is required. Only participation by certified DBEs will count toward the contract goal for this solicitation. In order to count toward a contract goal, a firm must be certified by the California Unified Certification Program (CUCP) and possess the work codes applicable to the type of work the firm will perform on the Agreement by the SOQ submittal due date. For a list of work codes, go to <https://caltrans.dbesystem.com/>.

It is the proposer's responsibility to verify that the DBE firm is certified as a DBE by the specified SOQ submittal due date and time. For a list of DBEs certified by the CUCP, go to: <https://caltrans.dbesystem.com/>.

Reference "Statement of Qualifications Submittal Requirements" for detailed information and references to the required forms. Required forms will be made part of the agreement. Failure to meet the DBE goal or Good Faith Effort requirements and provide required DBE participation at due date and time of SOQ submittal may result in the SOQ submittal being rejected as non-responsive.

Federal and/or State prevailing wage rates may apply. This requirement, if applicable, will be specified in the draft Agreement. All contractors and subcontractors who bid or work on public works projects must register with the Department of Industrial Relations (DIR).

Upon award and through completion of the project, the successful proposing Consultant will be required

to follow applicable federal-aid requirements and shall complete and submit with the agreement the following forms at the time of award:

- Local City Proposer DBE Information (Consultant Contracts) (LAPM10-O2)
- Any other relevant forms required during the project.

Consultant shall demonstrate familiarity of providing services for federally funded projects and has clear understanding of requirements/needs to facilitate the project through Caltrans Local Assistance and Local Assistance Procedures Manual.

Exhibits can be found in the LAPM manual at <https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms>.

B. Submission Instructions

Proposers responding to this RFQ must include in their submittal package the following items:

- Five (5) hard copies of the firm's SOQ.
- One (1) electronic copy in PDF format of the original document, except the cost proposal, on a USB Flash Drive containing one (1) PDF file of the full response that is clearly labeled with the firm's name.
- Signed copy of PROPOSER's ACKNOWLEDGEMENT of the draft contract agreement (refer to Section 8 of this RFQ and **Attachment 2**).

The above submittal items must be placed into a sealed envelope bearing proposer's name and the words:

RFQ – On-Call Professional Engineering Services for Federal and State Funded Projects,
City of California City.

The submittal package must be delivered to:

City of California City
Attn: Joe Barragan, Public Works Director
21000 Hacienda Blvd.
California City, CA 93505

The above submittals can be mailed or hand delivered but regardless of the postmark date, must be received by the City by 3:00 PM May 29, 2025. Electronic transmissions either by fax or email will NOT be accepted.

The City assumes no responsibility for non-receipt of submittal packages due to any delay, including, but not limited to, carrier delay. It is the proposer's responsibility to meet the deadline stated above.

Submittals which do not contain the requisite number of copies and all the information requested in the RFQ may be considered non-responsive and rejected without evaluation.

Submittals received after the deadline or at the wrong location will be considered non-responsive. Fax or email copies will not be accepted. All submittals become the property of the City of Taft and will not be returned.

SECTION 5. QUALIFICATIONS EVALUATION PROCESS AND CRITERIA

A. Evaluation Process

All submittals will be evaluated by the City of California City Selection Committee. The Committee may be composed of City's staff and other parties that may have expertise or experience in the services described herein. The Committee will review the submittals and will rank the proposers. The evaluation of the proposals shall be within the sole judgment and discretion of the Committee. All contacts during the evaluation phase shall be through the City Manager only. Proposers shall neither contact nor lobby evaluators during the evaluation process. Attempts by proposer to contact members of the Committee may jeopardize the integrity of the evaluation and selection process and risk possible disqualification of proposer.

The Committee will evaluate each submittal meeting the qualification requirements set forth in this RFQ. Proposers should bear in mind that any submittal that is unrealistic in terms of the technical or schedule commitments may be deemed reflective of an inherent lack of technical competence or indicative of a failure to comprehend the complexity and risk of the City's requirements as set forth in this RFQ.

The selection process may include oral interviews. The consultant will be notified of the time and place of oral interviews and if any additional information that may be required to be submitted.

Upon completion of the evaluation and selection process, only the cost proposal from the most qualified consultant will be opened to begin cost negotiations. If agreement cannot be reached, then negotiation proceeds to the next most qualified consultant. All unopened cost proposals will be returned at the conclusion of the procurement process. Upon acceptance of a cost proposal and successful contract negotiations, staff will recommend a contract be awarded.

B. Evaluation Criteria

The City will evaluate the submissions received based on criteria including the following:

No.	Criteria	Weight
1	Understanding of the work to be done	25
2	Design Engineering experience of state/federal funded projects	20
3	Construction Engineering/Management experience of state/federal funded projects	20
4	Qualifications of individual within the Consultant's organization directly responsible for the work	15
5	Familiarity with local, state and federal procedures/requirements	15
6	DBE Participation	5

SECTION 6. PROTEST PROCESS

If a proposer desires to protest the selection decision, the proposer must submit by facsimile or email a written protest within five (5) business days after the delivery of the decision notice. The written protest should be submitted to the City's Public Works Director as outlined below. Protests received after the deadline will not be accepted. Protests must be in writing, must include the name and address of the proposer and must state the specific reason(s) for the protest. A protest that merely addresses a single aspect of the selected proposal (for example, comparing the cost of the selected proposal in relation to the non--selected proposal) is not sufficient to support a protest. A successful protest will include sufficient evidence and analysis to support a conclusion that the selected

proposal, taken as a whole, is an inferior proposal. Protest procedures and dispute resolution processes should be in accordance with 2 CFR 200.318(k) and 23 CFR 172.5(c)(18).

The City's Public Works Director will respond to a protest within ten (10) business days of receipt, and City representatives may, at its election, set up a meeting with the proposer to discuss the concerns raised by the protest. The decision of the City representatives will be final. The protest letter may be Emailed to:

Joe Barragan, Public Works Director
pwdir@californiacity-ca.gov

SECTION 7. CONFIDENTIALITY OF RESPONSES

While the City cannot guarantee the confidentiality of information submitted by the City, it will make reasonable efforts to protect the information to the extent possible, as permitted by law. If sensitive information, such as personal financial statements, is necessary for support of capacity of Proposer, contact the City for further direction.

SECTION 8. CONTRACT DOCUMENTS

A sample copy of the City's CONSULTANT CONTRACT is included with this RFQ as **Attachment 2**. Please review the agreement carefully. This is the contract the CONSULTANT will be expected to execute without alteration. If any changes are desired, the firm must submit a copy of the requested modifications to the City for approval at least ten (10) calendar days prior to the date that RFQs are due. If approved, the City will then issue the changes to all prospective PROPOSERS prior to the due date.

As part of its submittal package, an officer of the firm must sign and return a copy of the sample agreement. The signature indicates that the firm accepts the clauses of the contract, as stated in the enclosed sample copy of the City's agreement and any modifications thereto issued by the City during this solicitation of SOQs.

An "Acknowledgment Line" which reads as the following will be found below the signature line of the draft agreement. The officer must review the sample agreement carefully prior to signing the draft agreement.

"PROPOSER's ACKNOWLEDGEMENT: "I have received and reviewed the sample CONSULTANT CONTRACT. My signature below shall signify our firm's acceptance of said contract if our firm is selected for awarding a contract for the project as described in said RFQ.

The Consultant shall not be allowed to alter or negotiate contract language after the submittal of Consultant's SOQ. Failure to execute the contract without alteration may result in the rejection of the Consultant's proposal and the retaining of a different consultant by the City.

At the time of contract execution, the Consultant will be required to provide evidence of insurance coverage (Certificates of Insurance) as specified in the agreement.

Selected Consultant shall comply with Chapter 10.4 of the Local Assistance Procedures Manual regarding the A&E Oversight Program and Process Review.

A contract will not be awarded to a consultant without an adequate financial management and accounting system as required by 24 CFR Part 85.20 "Standards for Financial Management Systems" and which is in conformance with OMB Circular A-87, "Cost Principles for State and Local Governments."

SECTION 9. MISCELLANEOUS INFORMATION

- A. Issuance of this RFQ does not constitute a commitment by the City to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services.
- B. The City reserves the right to reject any or all proposals received in response to this RFQ, or to cancel this RFQ if it is in the best interest of the City to do so.
- C. The City will select only one Professional firm to carry out the work described in this RFQ.
- D. The firm submitting a proposal agrees that by submitting a proposal it authorizes the City to verify any or all information and/or references given in the proposal.
- E. The City reserves the right to approve all subcontractors proposed by the primary contractor.
- F. The prospective Consultant is advised that should this RFQ result in recommendation for award of a contract, the contract will not be in force until it is approved and fully executed by the City of California City.
- G. The City reserves the right, after contract award, to amend the resulting contract as needed throughout the term of the contract to best meet the needs of all parties.
- H. No appeals will be heard for late proposals.
- I. Proposers will be required to provide proof of professional liability insurance and an errors and omissions policy to meet City requirements.
- J. All information, materials, and documents discovered or developed/produced for this project by Proposer will become the property of the City.
- K. Proposer must be licensed to practice engineering in the State of California, and must not be listed on Federal debarment lists.
- L. Proposers will be responsible for adherence to the City's Economic Opportunities Plan and Davis Bacon Act wage rates if applicable.
- M. The City is dedicated to the principles of equal employment opportunity in any term, condition or privilege of employment or contracting. We do not discriminate on the basis of age, race, sex, color, religion, national origin, disability, veteran status, sexual orientation, gender identity, or any other status protected by state or local law. This policy applies to all employees and non-employees such as customers, clients, vendors, contractors, subcontractors and consultants.
- N. Title VI of the Civil Rights Act of 1964 – disadvantage business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

SECTION 10. ATTACHMENTS TO THIS RFQ.

The following documents are attachments to this RFQ:

- Attachment 1: Exhibit 10-I – Notice to Proposers DBE Information
 Exhibit 10-O1 – Consultant Proposal DBE Commitment
 Exhibit 10-Q – Disclosure of Lobbying Activities
 Exhibit 15-H – Proposer/Contractor Good Faith Efforts

- Attachment 2: Sample Consultant Contract Agreement

Attachment 1

Exhibit 10-I – Notice to Proposers DBE Information

Exhibit 10-O1 – Consultant Proposal DBE Commitment

Exhibit 10-Q – Disclosure of Lobbying Activities

Exhibit 15-H – Proposer/Contractor Good Faith Efforts

Exhibit 10-I: Notice to Proposers DBE Information
(federally funded projects only)

The Local Public Agency (LPA) has established a DBE goal for this Contract of __ 15.00 %

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

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

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

4. DBE PARTICIPATION GENERAL INFORMATION

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

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

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

5. COUNTING DBE PARTICIPATION

Materials or supplies purchased from DBEs count towards the DBE goal under the following conditions:

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

6. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please [email DBE.Certification@dot.ca.gov](mailto:DBE.Certification@dot.ca.gov) for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Civil Rights [website](#). For guidance on how to search for certified firms using the CUCP database, please visit: [DBE Goal Setting | Caltrans](#)

Reset Form

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

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

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	%
<p>17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ _____ Consultant's Ranking after Evaluation: _____</p> <p>Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.</p> <p>_____ 21. Local Agency Representative's Signature 22. Date _____</p> <p>_____ 23. Local Agency Representative's Name 24. Phone _____</p> <p>_____ 25. Local Agency Representative's Title</p>	<p>IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.</p> <p>_____ 12. Preparer's Signature 13. Date _____</p> <p>_____ 14. Preparer's Name 15. Phone _____</p> <p>_____ 16. Preparer's Title</p>		

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

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

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT**CONSULTANT SECTION**

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

LOCAL AGENCY SECTION

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

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

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

Authorized for Local Reproduction

Federal Use Only:

Standard Form - LLL

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

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

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

EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS

Cost Proposal Due Date _____ PE/CE

Federal-aid Project No(s) _____ Bid Opening Date _____ CON

The City of California City established a Disadvantaged Business Enterprise (DBE) goal of 15.00 for this contract. The information provided herein shows the required good faith efforts to meet or exceed the DBE contract goal.

Proposers or bidders submit the following information to document their good faith efforts within five (5) calendar days from cost proposal due date or bid opening. Proposers and bidders are recommended to submit the following information even if the Exhibit 10-O1: Consultant Proposal DBE Commitments or Exhibit 15-G: Construction Contract DBE Commitment indicate that the proposer or bidder has met the DBE goal. This form protects the proposer’s or bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

The following items are listed in the Section entitled “Submission of DBE Commitment” of the Special Provisions, **please attach additional sheets as needed:**

- A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Dates of Advertisement

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of DBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates

- C. The items of work made available to DBE firms including those unbundled contract work items into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation in order to meet or exceed the DBE contract goal.

Items of Work	Proposer or Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract
	Pick			0.00%
	Pick			0.00%
	Pick			0.00%
	Pick			0.00%

- D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

Names, addresses and phone numbers of firms selected for the work above:

- E. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining information related to the plans, specifications and requirements for the work which was provided to DBEs:

F. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining bonding, lines of credit or insurance, necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization	Method/Date of Contact	Results
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

H. Any additional data to support a demonstration of good faith efforts:

SAMPLE CONSULTANT CONTRACT AGREEMENT

(For Local Assistance Federal-Aid Projects)

ARTICLE I INTRODUCTION

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

The name of the "CONSULTANT" is as follows:

(NAME OF CONSULTANT)

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:

(NAME)

The Contract Administrator for LOCAL AGENCY will be **(NAME)**

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

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

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

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

ARTICLE III STATEMENT OF WORK

A. CONSULTANT Services

The CONSULTANT shall provide services to the City including, but not limited to; CEQA/NEPA coordination or compliance documentation, program/project management, feasibility studies, preliminary engineering, design, engineering, surveying (right of way engineering), mapping, landscape architecture, or architectural related services, construction management/engineering, as well as incidental services connected to and for the purpose of development and implementation of Federal-aid, and State funded projects. Successful firm will represent the City at all state, local or federal project audits.

The project will require coordination with Caltrans, FHWA, and/or other state, local and federal agencies. Project design shall meet all City Requirements and conform to the City and Caltrans standard specifications, current edition.

CITY will pay for direct project's construction phase advertisement costs.

B. Project Management

- a. The City Manager will serve as the contract manager and direct liaison between the Consultant and Caltrans District 9 Division of Local Assistance. The consultant shall be responsible for project management activities throughout the life of the contract and the scope of activities includes but is not limited to, coordinating and being responsible for scheduling meetings, managing the project schedule, preparing and distributing minutes, field

reviews, tracking action items for the City and consultant sub-contractors, and preparing all submissions for the City to submit to Caltrans Local Assistance and/or other agencies.

- b.** Due to the fact that many of the City's current and future projects are funded by Federal and State grants, the selected consulting firm must have excellent knowledge of the requirements of Caltrans' Local Assistance Procedures Manual requirements.
- c.** Preliminary Engineering Phase Authorization - Consultant shall prepare the Request for Authorization to Proceed with Preliminary Engineering package using procedures outlined in the Caltrans Local Assistance Procedures Manual.
- d.** Prepare and submit progress invoices to Caltrans for reimbursement.

C. Environmental Compliance

- a.** Coordinate with Caltrans Dist. 9 and schedule a field review of the site, as needed.
- b.** Perform the site review, survey and study. Prepare and supply all reporting, presentations, documents, and mitigation requirements, etc. necessary to meet current NEPA environmental compliance requirements. Note: **Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion, a Caltrans Deputy District Director signs the Finding of No Significant Impact, or the Caltrans District Director signs the Record of Decision** (see LAPM Chapter 6: Environmental Procedures, and the Standard Environmental Reference). City staff will prepare the CEQA document.
- c.** Coordinate with Caltrans Dist. 9 to determine if special studies will be required, i.e. cultural, archeological etc.
- d.** Prepare, submit, correct, edit and add information for the Exhibit 6-A Preliminary Environmental Study (PES) document and Area of Potential Effects (APE) map, as necessary. ***Contracting City is not obligated to proceed with final design for any alternative, all reasonable alternatives will be evaluated and given appropriate consideration, and the firm may not proceed with final design until the relevant CEQA/NEPA decision documents have been issued (e.g., CE, FONSI, or ROD).***

D. Preliminary Engineering

- a.** Scope includes: Civil Engineering / Architectural / Field Survey / Soils & Materials Testing
- b.** Coordinate with City Manager, Public Works Director, City Project Coordinator and/or Street Superintendent for initial concept and direction.
- c.** Surveys and Mapping – review aerial photos, mapping and perform surveying necessary for preliminary engineering, design, cost estimates, and the level of environmental clearance. The scope of comprehensive base mapping and surveying includes but is not limited to Control Surveys, Aerial Photogrammetry, Limited Design Level Topographic Surveys, Right-of-Way Retracement, and a Record of Survey.
- d.** Prepare a right-of-way certification per Caltrans LAPM Exhibit 13-A or 13-B, as applicable.
- e.** Preliminary Engineering Studies – Develop general project locations and design concepts and related activities needed to establish the parameters for final design such as Geometrics, Hydraulics, Geotechnical, Bridge, Landscape Architecture, Traffic Operations, Electrical, ITS Elements, etc.
- f.** Develop concept and design drawings for submission to regulatory or funding bodies for approvals including, but not limited to: FHWA, and their corresponding California State agencies.
- g.** Submit preliminary design and preliminary construction cost estimate to the City for review and comment.
- h.** Prepare exhibits, renderings, drawings and prepare presentations to City Staff and/or City Council.
- i.** Utility Coordination – Submit improvement plans to utility companies in accordance with their requirements. Coordinate utility relocations, if any, including relocation of utility poles, as needed.

- j.* Provide geotechnical evaluations and recommendations services with field investigation borings, field samples, lab testing, as needed, for pavement design section, driveways, curb & gutter, cross gutters, footings, slabs, etc.
- k.* Provide civil engineering and/or architectural design for complete roadway geometric design, demolition, asphalt and base improvements, drainage, grading, curb, gutter, sidewalks, cross gutters, ADA access ramps, street signage, street striping/markings, electrical improvements, landscaping, irrigation, waste water, sewer improvements, water improvements, site improvements, structure/bridge design, building design, etc.
- l.* On behalf of the City, apply for and obtain all required approvals and permits from all governing public agencies for the construction of the project.
- m.* Coordination with Adjacent Properties – Coordinate with adjacent property to establish driveway locations and other modifications required in front of their property such as fence relocations, mailbox relocation, or tree removal.
- n.* Assist City in applying for and obtaining utility services and/or relocation of existing utilities necessary for project(s) to be constructed and functional.
- o.* Prepare construction plans, specifications and bidding documents for construction. (utilizing the Caltrans Standards and AASHTO Geometric Design guidelines, current edition). The Construction Plans, Specifications, Special Provisions and Bid Documents shall be adequate for obtaining construction bids in accordance with all applicable regulations and requirements of the pertinent Local/Federal/State funding entities.
- p.* Prepare a final detailed Construction Cost Estimate for the project based on the final design report. The Preliminary Construction Cost Estimate shall be an itemized estimate, including all of the components necessary for the complete construction of the project.
- q.* The CONSULTANT/engineer shall sign all Plans, Specifications and Estimate (PS&E) and engineering data furnished under the AGREEMENT including registration number.
- r.* Provide an electronic copy of the final approved plans and specifications. The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications shall be provided in both Microsoft Word format and PDF format.
- s.* Construction Phase Authorization - Consultant shall prepare the Request for Authorization to Proceed with Construction package to advance project to construction using procedures outlined in the Caltrans Local Assistance Procedures Manual.

E. Bid Process

- a.* Assist the City in all aspects of the bidding process with construction and engineering firms, including but not limited:
 - 1) Distribute plans and specifications to Contractors and Plan Rooms
 - 2) Keep Plan holders list
 - 3) Prepare addendums
 - 4) Perform design revisions, additions, answers to questions, RFI's, etc.
 - 5) Attend and conduct pre-bid and site walk meetings
 - 6) Review three lowest bids and their good faith DBE efforts
 - 7) Prepare bid summary
 - 8) Verify low bidder's qualifications
 - 9) Make recommendations for awarding the construction contract

F. Construction Engineering/Management/Inspection/ Soils and Materials Testing:

- a.* Provide Construction Engineering/Management and/or inspection services.
- b.* Review and approve contract's shop drawings, schedules, insurance, submittals and make recommendation for Notice to Proceed.
- c.* Coordinate with utility companies for connections, service, relocations, etc.
- d.* Perform construction staking as required.
- e.* Perform contract administration paperwork, including, but not limited to, review contractor's payment requests and make recommendation for payment, conflict resolution, check certified payroll, releases, bonds, final pay requests certificate of completion, etc.

- f.** Investigate proposed contract change orders and submit background information to the City for a decision, if justified, and prepare necessary drawings and documents for approval.
- g.** Perform inspection services, RE's daily reports, materials, subcontractors, equipment, manpower, weather, activities, etc.
- h.** Responsible for ensuring that all work is built to standards defined by the contract documents.
- i.** Perform materials and soils testing per City's Quality Assurance Program. Materials testing services includes:
 - Engage third-party testing and inspection firm.
 - Sampling and testing of soils, asphalt concrete, concrete, steel, and other construction materials.
 - Evaluation of results and furnishing of testing reports.
 - Additional testing as applicable to ensure project expectations are met. (i.e., quality assurance testing).
- j.** Prepare and maintain as-built drawings and construction documentation for review by any auditing City.
- k.** Prepare the final punch list and oversee punch list item resolution.
- l.** Project Close Out.
- m.** Represent the City at all local, state or federal project audits.

G. Right of Way

CONSULTANT shall prepare a right-of-way certification per Caltrans LAPM Exhibit 13-A or 13-B, as applicable. The scope of comprehensive base mapping and surveying includes but is not limited to Control Surveys, Aerial Photogrammetry, Limited Design Level Topographic Surveys, Right-of-Way Retracement, and a Record of Survey.

H. Surveys

CONSULTANT shall review aerial photos, mapping and perform preliminary surveying necessary for preliminary engineering, design, cost estimates, and the level of environmental clearance.

CONSULTANT shall Perform construction surveys/staking as needed.

I. Subsurface Investigations

CONSULTANT has responsibility for making subsurface investigations. Soils testing and any other specialized services shall be performed by CONSULTANT and/or their Sub-Consultant.

J. Local Agency Obligations

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

K. Conferences, Site Visits, Inspection of Work

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

L. Checking Shop Drawings

CONSULTANT shall review and approve contract's shop drawings, schedules, insurance, submittals and make recommendation for Notice to Proceed. Payment for checking shop drawings by CONSULTANT shall be included in the AGREEMENT fee.

M. CONSULTANT Services During Construction

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

N. Documentation and Schedules

The CONSULTANT shall document the results of the work to the satisfaction of LOCAL AGENCY, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the AGREEMENT objectives.

O. Deliverables and Number of Copies

As agreed upon by the City and consultant in a Task Order for each project.

As a MINIMUM the CONSULTANT shall provide an electronic copy of the final approved plans and specifications, and a hard copy of the final approved plans and specifications. The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications shall be provided in both Microsoft Word format and PDF format. If requested, additional copies shall be provided at reproduction cost.

ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT 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 AGREEMENT shall end on **(DATE)**, unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.
- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this AGREEMENT, the terms of the AGREEMENT shall be extended by AGREEMENT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only. The maximum term shall not exceed five (5) years.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this AGREEMENT. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.
- D. After a project to be performed under this AGREEMENT is identified by LOCAL AGENCY, LOCAL AGENCY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a LOCAL AGENCY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both LOCAL AGENCY and CONSULTANT.

- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's approved Cost Proposal.

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

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

(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 AGREEMENT.
- M. The total amount payable by LOCAL AGENCY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.
- N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders may not be used to amend the language (or the terms) of this AGREEMENT nor to exceed the scope of work under this AGREEMENT.
- P. The LOCAL AGENCY anticipates to enter into up to twenty (20) task order contracts for performance of the Scope of Services identified in **Article III of this AGREEMENT**. The total

amount payable by the LOCAL AGENCY for all Task Order Contracts must not exceed a cumulative maximum total value of **Nine Hundred Eighty-Nine Thousand Dollars (\$989,000)** (“NTE Sum”). 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. Each time a Task Order is awarded under any of the Task Order Contracts, the LOCAL AGENCY may send written notification to CONSULTANT. The notice will identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. CONSULTANT acknowledges and agrees that LOCAL AGENCY will not pay any amount under this AGREEMENT that would exceed the NTE Sum, and CONSULTANT must not enter into a Task Order that exceeds the NTE Sum.

ARTICLE VI TERMINATION

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

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

ARTICLE VIII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the

performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT and records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

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

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

Accepted rates will be as follows:

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

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the LOCAL AGENCY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the LOCAL AGENCY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from the LOCAL AGENCY's obligation to make payments to the CONSULTANT.
- B. The CONSULTANT shall perform the work contemplated with resources available within its own

organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.

- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.
- E. Any substitution of Subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.
- F. Prompt Progress Payment

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

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

- G. Prompt Payment of Withheld Funds to Subconsultants

The LOCAL AGENCY may hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY, of the contract work, and pay retainage to CONSULTANT based on these acceptances. The LOCAL AGENCY shall designate one of the methods below in the contract to ensure prompt and full payment of any retainage kept by CONSULTANT or subconsultant to a subconsultant.

Method 1: No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. CONSULTANTS and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

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

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by LOCAL AGENCY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.
- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:
 1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.
 2. Regulation 2 CFR 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records

1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT

is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.

- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
- F. Penalty
1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
 4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the CONSULTANT of the project is not liable for the penalties described above unless the CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.

5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

G. Hours of Labor

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

H. Employment of Apprentices

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

ARTICLE XIII CONFLICT OF INTEREST

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

- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

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

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

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny

the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 3. Does not have a proposed debarment pending; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government excluded parties (<https://sam.gov/content/home>) maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

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

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate Good Faith Efforts (GFE) to meet this goal. It is CONSULTANT's responsibility to verify at date of proposal opening that the DBE firm is certified as a DBE by using the California Unified Certification Program (CUCP) database and possesses the most specific available North American Industry Classification System (NAICS) codes and work code applicable to the type of work the firm will perform on the contract. Additionally, the CONSULTANT is responsible to document the verification record by printing out the CUCP data for each DBE firm. A list of DBEs certified by the CUCP can be found at <https://dot.ca.gov/programs/civil-rights/dbe-search>.

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

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTS who

enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.

- B. The goal for DBE participation for this AGREEMENT is 15.00 %. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10-02: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: Proposer/Contractor Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance

Under 49 CFR 26.13(b):

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

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

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

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

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

[Termination of DBE Subconsultants](#)

[After execution of the AGREEMENT, termination of a DBE may be allowed for the following, but not limited to, justifiable reasons with prior written authorization from the LOCAL AGENCY:](#)

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The LOCAL AGENCY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the LOCAL AGENCY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under

Contractors License Law.

4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent or exhibits credit unworthiness.
8. Listed DBE voluntarily withdraws with written notice from the Contract.
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The LOCAL AGENCY determines other documented good cause.

CONSULTANT must use the following procedures to request the termination of a DBE or portion of a DBE's work:

1. Send a written notice to the DBE of the CONSULTANT's intent to use other forces or material sources and include one or more justifiable reasons listed above. Simultaneously send a copy of this written notice to the LOCAL AGENCY. The written notice to the DBE must request they provide any response within five (5) business days to both the CONSULTANT and the LOCAL AGENCY by either acknowledging their agreement or documenting their reasoning as to why the use of other forces or sources of materials should not occur.
2. If the DBE does not respond within five (5) business days, CONSULTANT may move forward with the request as if the DBE had agreed to CONSULTANT's written notice.
3. Submit CONSULTANT's DBE termination request by written letter to the LOCAL AGENCY and include:
 - One or more above listed justifiable reasons along with supporting documentation.
 - CONSULTANT's written notice to the DBE regarding the request, including proof of transmission and tracking documentation of CONSULTANT's written notice
 - The DBE's response to CONSULTANT's written notice, if received. If a written response was not provided, provide a statement to that effect.

The LOCAL AGENCY shall respond in writing to CONSULTANT's DBE termination request within five (5) business days.

Replacement of DBE Subconsultants

After receiving the LOCAL AGENCY's written authorization of DBE termination request, CONSULTANT must obtain the LOCAL AGENCY's written agreement for DBE replacement. CONSULTANT must find or demonstrate GFEs to find qualified DBE replacement firms to perform the work to the extent needed to meet the DBE commitment.

The following procedures shall be followed to request authorization to replace a DBE firm:

1. Submit a request to replace a DBE with other forces or material sources in writing to the LOCAL AGENCY which must include:
 - a. Description of remaining uncommitted work item made available for replacement

DBE solicitation and participation.

- b. The proposed DBE replacement firm's business information, the work they have agreed to perform, and the following:
 - Description of scope of work and cost proposal
 - Proposed subcontract agreement and written confirmation of agreement to perform on the Contract
 - Revised Exhibit 10-O2: Consultant Contract DBE Commitment
2. If CONSULTANT has not identified a DBE replacement firm, submits documentation of CONSULTANT's GFEs to use DBE replacement firms within seven (7) days of LOCAL AGENCY's authorization to terminate the DBE. CONSULTANT may request the LOCAL AGENCY's approval to extend this submittal period to a total of 14 days. Submit documentation of actions taken to find a DBE replacement firm, such as:
 - Search results of certified DBEs available to perform the original DBE work identified and or other work CONSULTANT had intended to self-perform, to the extent needed to meet DBE commitment
 - Solicitations of DBEs for performance of work identified
 - Correspondence with interested DBEs that may have included contract details and requirements
 - Negotiation efforts with DBEs that reflect why an agreement was not reached
 - If a DBE's quote was rejected, provide reasoning for the rejection, such as why the DBE was unqualified for the work, or why the price quote was unreasonable or excessive
 - Copies of each DBE's and non-DBE's price quotes for work identified, as the LOCAL AGENCY may contact the firms to verify solicitation efforts and determine if the DBE quotes are substantially higher
 - Additional documentation that supports CONSULTANT's GFE

The LOCAL AGENCY shall respond in writing to CONSULTANT's DBE replacement request within five (5) business days.

F. Commitment and Utilization

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

The LOCAL AGENCY shall request CONSULTANT to:

1. Notify the LOCAL AGENCY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subconsultant
 - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business (see Exhibit 9-F: Monthly

Disadvantaged Business Enterprise Payment)

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

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

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

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

G. Commercially Useful Function

DBEs must perform a commercially useful function (CUF) under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBE value of work will only count toward the DBE commitment if the DBE performs a CUF. A DBE performs a CUF when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself.

CONSULTANT must perform CUF evaluation for each DBE working on a federal-aid contract, with or without a DBE goal. Perform a CUF evaluation at the beginning of the DBE's work and continue to monitor the performance of CUF for the duration of the project.

CONSULTANT must provide written notification to the LOCAL AGENCY at least 15 days in advance of each DBE's initial performance of work or supplying materials for the Contract. The notification must include the DBE's name, work the DBE will perform on the contract, and the location, date, and time of where their work will take place.

Within 10 days of a DBE initially performing work or supplying materials on the Contract, CONSULTANT shall submit to the LPA the initial evaluation and validation of DBE performance of a CUF using the LAPM 9-J: Disadvantaged Business Enterprise Commercially Useful Function Evaluation. Include the following information with the submittal:

- Subcontract agreement with the DBE
- Purchase orders
- Bills of lading
- Invoices
- Proof of payment

CONSULTANT must monitor all DBE's performance of CUF by conducting quarterly evaluations and validations throughout their duration of work on the Contract using the LAPM 9-J: DBE

Commercially Useful Function Evaluation. CONSULTANT must submit to the LOCAL AGENCY these quarterly evaluations and validations by the 5th of the month for the previous three months of work.

CONSULTANT must notify the LOCAL AGENCY immediately if they believe the DBE may not be performing a CUF.

The LOCAL AGENCY will verify DBEs performance of CUF by reviewing the initial and quarterly submissions of LAPM 9-J: DBE Commercially Useful Function Evaluation, submitted supporting information, field observations, and through any additional LOCAL AGENCY evaluations. The LOCAL AGENCY must evaluate DBEs and their CUF performance throughout the duration of a Contract. The LOCAL AGENCY will provide written notice to the CONSULTANT and the DBE at least two (2) business days prior to any evaluation. The CONSULTANT and the DBE must participate in the evaluation. Upon completing the evaluation, the LOCAL AGENCY must share the evaluation results with the CONSULTANT and the DBE. An evaluation could include items that must be remedied upon receipt. If the LOCAL AGENCY determines the DBE is not performing a CUF, the CONSULTANT must suspend performance of the noncompliant work.

CONSULTANT and DBEs must submit any additional CUF related records and documents within five (5) business days of LOCAL AGENCY's request such as:

- Proof of ownership or lease and rental agreements for equipment
- Tax records
- Employee rosters
- Certified payroll records
- Inventory rosters

Failure to submit required DBE Commercially Useful Function Evaluation forms or requested records and documents can result in withholding of payment for the value of work completed by the DBE.

If CONSULTANT and/or the LOCAL AGENCY determine that a listed DBE is not performing a CUF in performance of their DBE committed work, CONSULTANT must immediately suspend performance of the noncompliant portion of the work. LOCAL AGENCY may deny payment for the noncompliant portion of the work. LOCAL AGENCY will ask the CONSULTANT to submit a corrective action plan (CAP) to the LOCAL AGENCY within five (5) days of the noncompliant CUF determination. The CAP must identify how the CONSULTANT will correct the noncompliance findings for the remaining portion of the DBE's work. LOCAL AGENCY has five (5) days to review the CAP in conjunction with the CONSULTANT's review. The CONSULTANT must implement the CAP within five (5) days of the LOCAL AGENCY's approval. The LOCAL AGENCY will then authorize the prior noncompliant portion of work for the DBE's committed work.

If corrective actions cannot be accomplished to ensure the DBE performs a commercially useful function on the Contract, CONSULTANT may have good cause to request termination of the DBE.

- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work

of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.
- L. For projects awarded after September 1, 2023: Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract. If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance:

The City requires a minimum of Two Million Dollars (\$2,000,000) Professional Liability Insurance, and General Liability Insurance; One Million Dollars (\$1,000,000) Automobile Liability Insurance, and Workers' Compensation Insurance.

- B. The Certificate of Insurance will provide:

1. That the insurer will not cancel the insured's coverage without thirty (30) calendar days prior written notice to LOCAL AGENCY.
2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this AGREEMENT are concerned.
3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.

- C. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) calendar days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.

ARTICLE XX FUNDING REQUIREMENTS

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

ARTICLE XXI CHANGE IN TERMS

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

ARTICLE XXII CONTINGENT FEE

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

ARTICLE XXIII DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

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

ARTICLE XXIV INSPECTION OF WORK

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

ARTICLE XXV SAFETY

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

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each

considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.

- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

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

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.

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

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE XXX EVALUATION OF CONSULTANT

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

ARTICLE XXXI PROMPT PAYMENT

A. PROMPT PAYMENT FROM LOCAL AGENCY TO CONSULTANT

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

- (1) The LOCAL AGENCY shall review each payment request as soon as feasible after receipt to verify it is a proper payment request.
- (2) The LOCAL AGENCY must return any payment request deemed improper by the LOCAL AGENCY to the CONSULTANT as soon as feasible, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request.

B. PROMPT PAYMENT CERTIFICATION

For projects awarded on or after September 1, 2023: the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract by the 15th of the month following the month of any payment(s). If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

The LOCAL AGENCY must verify all Exhibit 9-P information, monitor compliance with prompt

payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The LOCAL AGENCY must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the CONSULTANT.

ARTICLE XXXII TITLE VI ASSURANCES

APPENDICES A - E of the TITLE VI ASSURANCES

[The U.S. Department of Transportation Order No.1050.2A requires all federal-aid Department of Transportation contracts between an agency and a consultant to contain Appendices A and E of the Title VI Assurances. Include Appendices B, C, and D if applicable as shown below. In addition, the consultant must include the Title VI Assurances Appendices A and E, and if applicable Appendices B, C, and D in all subcontracts to perform work under the contract.

The clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a LOCAL AGENCY.

The clauses set forth in Appendix C and Appendix D of this Assurance shall be included as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the LOCAL AGENCY with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and*
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.]*

APPENDIX A

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

- a. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

- d. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
- i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - ii. cancellation, termination or suspension of the Agreement, in whole or in part.
- f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained

as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the recipient pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D
CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE
ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the recipient pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

APPENDIX E

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits

discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C.1681 et seq).

ARTICLE XXXIII NOTIFICATION

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

CONSULTANT:

_____ (CONSULTANT) _____

_____ (NAME) _____, Project Manager

_____ (ADDRESS) _____

LOCAL AGENCY:

_____ (LOCAL AGENCY) _____

_____ (NAME) _____, Contract Administrator

_____ (ADDRESS) _____

ARTICLE XXXIV CONTRACT

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

ARTICLE XXXV SIGNATURES

(Name of LOCAL AGENCY)

(Name of CONSULTANT)

(Signature)

(Name of Signer)

(Signature)

(Name of Signer)

Date: _____

Date: _____

"PROPOSER's ACKNOWLEDGEMENT: "I have received and reviewed the sample CONSULTANT CONTRACT. My signature below shall signify our firm's acceptance of said contract if our firm is selected for awarding a contract for the project as described in said RFP.

By: Printed Name

Signature

Attachment 2

Sample Consultant Contract Agreement