

**CITY OF PLACERVILLE**  
Engineering Department



**REQUEST FOR PROPOSALS**  
**FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES**

*for*

**Placerville Drive Pedestrian Connectivity Project**  
**(CIP #42337)**

**A Federally-Funded Project**  
Federal Project No. 5015(037)

**Release Date: April 10, 2025**  
**Proposals due by: May 8, 2025 at 3:00 pm**

A complete copy of the RFP and attachments can be found at:  
[www.cityofplacerville.org/rfp-rfq-projects-out-to-bid](http://www.cityofplacerville.org/rfp-rfq-projects-out-to-bid)



# City of Placerville

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**Engineering Department**  
3101 Center Street  
Placerville, CA 95667  
Phone: (530) 642-5250

April 10, 2025

TO: Qualified Engineering Consultants

SUBJECT: **REQUEST FOR PROPOSALS NOTICE**  
**PLACERVILLE DRIVE PEDESTRIAN CONNECTIVITY PROJECT**

Dear Qualified Civil Engineering Consultant:

Notice is hereby given that Proposals will be received at the City of Placerville (3101 Center Street, Placerville, CA 95667) until **Thursday, May 8, 2025 at 3:00 P.M.** local time, for furnishing all labor, materials and equipment, and performing all work necessary and incidental to:

**Provide construction management services including Resident Engineer, inspection, materials testing, construction staking quality control, and contract administration services for the Federally-funded Placerville Drive Pedestrian Connectivity Project.**

Construction work will include curb, gutter, and sidewalk, minor storm drain improvements, minor pavement rehabilitation, and crosswalk improvements on Placerville Drive from US 50/Fair Lane to Armory Drive.

Proposals shall be addressed to:

City of Placerville  
Engineering Department  
3101 Center Street  
Placerville, CA 95667

Attn: Melissa Savage, P.E.  
City Engineer  
Email: [msavage@cityofplacerville.org](mailto:msavage@cityofplacerville.org)

Consultants wishing to propose in response to this RFP are invited to notify the City of their intent to propose by emailing Melissa Savage at the address indicated above to be added on the Proposer List. The City reserves the right of amend this RFP by addendum prior to the final submittal date and will email any addendums to the RFP directly to the Consultants on the Proposer List.

Questions shall be addressed to Melissa Savage in writing according to the timelines indicated herein



## City of Placerville

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and at the address indicated above. Verbal explanation or instructions shall not be considered binding by the City of Placerville. Any modifications to this solicitation will be issued by the City of Placerville in the form of written addenda as indicated above.

This RFP does not commit the City of Placerville to award a contract or pay any costs associated with the preparation of a proposal. The City of Placerville reserves the right to cancel this solicitation at any time or to extend the submittal deadline.

Sincerely,

A handwritten signature in blue ink that reads "Melissa Savage". The signature is written in a cursive, flowing style.

Melissa Savage, P.E.

City Engineer

Office: (530) 642-5250

Email: [msavage@cityofplacerville.org](mailto:msavage@cityofplacerville.org)

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## **1. INTRODUCTION**

The City of Placerville (City) is soliciting Proposals from qualified firms (Proposer) to provide professional Resident Engineer, inspection, materials testing, construction staking quality assurance, and contract administration services for the **Placerville Drive Pedestrian Connectivity Project**. Major elements of the project include the following:

- Construction of curb, gutter, and sidewalk,
- Minor pavement rehabilitation,
- Crosswalk improvements in front of the El Dorado County Fairgrounds, and
- Minor storm drain improvements.

The project is located on Placerville Drive from US 50/Fair Lane to Armory Drive. The Consultant may also download a set of the draft 95% Not for Construction Plans and Specifications from the City's website.

Funding for construction and construction management of the project is currently planned through the federal Congestion Mitigation and Air Quality Improvement Program (CMAQ) with local matching funds. The proposer should be experienced in administering construction projects with federal funds.

It is the intent of the City to have the project constructed in accordance with the project plans and specifications prepared for the project. The tentative project schedule is as follows:

1. Proposals Due – May 8, 2025
2. Interviews (if needed) – May 20, 2025
3. Advertise Construction Contract – June 19, 2025
4. Award Construction Management Agreement – June 24, 2025
5. Award Construction Contract – August 12, 2025
6. Begin Construction – August 2025
7. End Construction – December 2025
8. Project Close Out – May 2026

It is anticipated that pre-construction services will begin immediately upon execution of the Agreement and issuance of a Notice to Proceed, but that full time construction management services will not be required until the mobilization and commencement of construction and continue until completion of the project. Part-time and intermittent services will be required until acceptance of the project and through close-out.

## **2. SCOPE OF SERVICES**

The City requires the services of a competent and experienced consulting engineering firm (CM) to provide all administration and construction contract management services for the construction of the Placerville Drive Pedestrian Connectivity Project. The scope of services includes, but is not limited to, bid support, preconstruction services (including a constructability review of draft 95% plans and specifications), administration of the construction contract, quality control, materials testing,

inspection, coordination of minor environmental monitoring, and surveying quality control. The successful firm shall provide a field site representative who is a licensed professional civil engineer in the State of California, and who will be subject to the approval of the City, to perform and function as the Resident Engineer (RE). Significant preference will be given to firms that propose an RE with experience on projects of similar size and type, and that have experience administering federally-funded construction contracts per Chapter 16 of the Local Assistance Procedures Manual (LAPM).

In addition to the RE, the CM shall provide qualified support staff, including subconsultants, to assist the City in managing the Project. The CM team shall be available as necessary to support the work upon receipt of the Notice to Proceed for this contract.

The individual inspectors shall have inspection experience that includes, but is not limited to, the following areas:

- Caltrans Construction Management Protocols and Procedures.
- General site preparation.
- Minor underground construction, including drainage facilities.
- Sidewalk construction, including minor paving.

The CM Project Manager (PM) and RE shall report directly to the City. The CM PM and the RE can be the same person.

See Attachment B for the planned Scope of Services for the CM firm. Consultant shall provide an outline of the Scope of Services in accordance with Attachment B. The proposed scope of work should include any modifications or methodology suggestions your firm recommends that are appropriate for this project based on your experience and strategies of successful project delivery. Include a description of why the changes are recommended.

If desired, the City will designate an office space cubicle for the CM firm located within City Hall for use during construction. The CM firm shall provide its own equipment (computers, printer, office materials, testing equipment, etc.).

### **3. FEDERAL AID REQUIREMENTS**

The Project is funded with federal Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds and local funds. This project is therefore subject to the provisions of the most recent LAPM, and all applicable federal-aid requirements.

- A. A Disadvantaged Business Enterprise (DBE) goal of sixteen percent (15%) has been identified for this consultant contract.** The consultant must meet the goal by using DBE firms or document a good faith effort to meet the goal. A completed Consultant Proposal DBE Commitment form (Exhibit 10-O1) must be included in the proposal. If the DBE goal is not

met, the good faith effort shall be submitted with the proposal and contain all of the information required in Exhibit 15-H of the Caltrans LAPM. Attachment C contains additional information regarding the DBE requirement. An Exhibit 10-O2 Consultant Contract DBE Commitment must be provided at contract execution for submittal to Caltrans Local Assistance.

## **B. Cost Proposal**

In a separate, sealed envelope, Proposers must provide a total cost proposal for all services to be delivered, and a breakdown on costs delineated by tasks as described and outlined in the Scope of Services. A schedule of hourly rates in a cost-plus format for all proposed staff and the amount of time each person will devote to the project must be included. Define any reimbursable expenses requested to be paid by the City. The cost proposal must be in a cost-plus fixed fee format in accordance with current requirements of Chapter 10 of the LAPM. Attachment D includes a sample cost proposal (Exhibit 10-H).

All consultant contracts funded or partially funded by federal-aid highway funds must be performed and audited in compliance with the federal cost principles. Please refer to Section 10.1.3 of the Caltrans LAPM Chapter 10 for more information.

## **C. Non-Lobbying Certification**

The prospective participant certifies by signing and submitting a proposal to the best of his or her knowledge and belief that:

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any

person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his/her proposal that he/she shall require that the language of this certification be included in all lower-tier subcontracts which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Exhibit 10-Q Disclosure of Lobbying Activities form, Attachment E of this RFP, shall be completed and submitted with the proposal.

**The successful proposer will be responsible for meeting all federal funding requirements for this project.**

#### **4. RESPONSE TO THIS RFP**

Consultants wishing to propose in response to this RFP are invited to notify the City of their intent to propose by emailing the project manager to be added to the Proposer List. The City reserves the right to amend this RFP by addendum prior to the final submittal date and will email any addendums to the RFP directly to the Consultants on the Proposer List

Firms responding to this RFP shall submit four (4) hard copies of the proposal and one (1) electronic copy. Proposals shall be submitted in sealed envelopes or containers that bear the name and business address of the firm and shall also be plainly labeled as follows in the lower left-hand corner of the envelope:

**CITY OF PLACERVILLE  
PLACERVILLE DR PEDESTRIAN CONNECTIVITY PROJECT  
CONSTRUCTION MANAGEMENT SERVICES PROPOSAL**

The City of Placerville will accept written Proposals at the following address:

City of Placerville  
Engineering Department  
3101 Center Street  
Placerville, CA 95667  
  
Attn: Melissa Savage, P.E.  
City Engineer

Proposals may be hand-delivered or mailed via U.S. Post Office or overnight service. The City of Placerville will NOT accept proposals submitted via e-mail.

**Deadline for receipt of Proposals is 3:00 p.m. on Thursday, May 8, 2025.**

If all required information is not provided, a Proposal may be considered incomplete and non-responsive and rejected without evaluation. Late submittals, submittals to the wrong location, or



submittals with inadequate copies are considered non-responsive. Submittal of additional information after the deadline will not be allowed.

The City of Placerville reserves the right to reject any or all Proposals and to waive any and all irregularities and to select the firm which, in its opinion, best serves its interests based on the qualifications of the firm. The City makes no representation that any contract will be awarded in response to this RFP. The City will not be liable for any costs incurred by the Proposers incidental to the preparation and presentation of qualifications either orally or in the Proposal. Any costs incurred in the preparation of the Proposal, in the submittal of additional information, and/or in any other aspect of the Proposal prior to the award of a written agreement will be borne by the Proposer. Proposals shall remain in effect for a period of 120 days from the submittal deadline.

## **5. PROPOSAL FORMAT REQUIREMENTS**

Each response to this RFP shall include the information described in this section. Provide the information in the specified order. Failure to include all of the elements specified may be cause for rejection. Additional information may be provided but should be succinct and relevant to the goals of this RFP. Excessive information will not be considered favorably.

The Consultant's Proposal package shall be limited to 20 double-sided 8.5-inch by 11-inch pages. Charts, exhibits, and schedules may be included in 11-inch by 17-inch page format and shall be folded to fit into an 8.5-inch by 11-inch sheet and will count as one (1) page. The page limit does not include the outside cover, section dividers, cover letters, resumes, and sub consultant commitment memorandum, Scope of Services, or contract comments. Proposals that do not contain the required information as described in this RFP or do not contain the required number of copies (4 copies) may be rejected. The proposal must include the following items:

### **A. Cover Letter with the following information:**

- Title of this RFP
- Name and Mailing Address (include physical location if mailing address is a PO Box)
- Contact Person, Telephone Number, and Email Address
- A statement that the submitting firm will perform the services and adhere to the requirements described in this RFP, including any addenda (*reference the addenda by date and/or number*).
- Acknowledgement that all proposals may be considered public information. Subsequent to award of a contract, or rejection of all proposals, all of part of any submittal may be released to any person or firm who may request it. Therefore, proposers shall specify in their Cover Letter if any portion of their submittal should be treated as proprietary and not releasable as public information. Proposers should be aware that all such requests may be subject to legal review and challenge.

- The Cover Letter must be signed by an officer empowered by the Consultant to sign such material and thereby commit the Consultant to the obligations contained in the RFP response. Further, the signing and submission of a response shall indicate the intention of the proposer to adhere to the provisions described in this RFP and a commitment to enter a binding contract.

## **B. Capabilities of Firm / Team**

Provide a brief narrative of your firm's approach to the project. Include information related to the Firm's Organization, including its constituent parts, and size variation of staffing levels over the past five years.

Provide relevant summaries of the firm's experience with similar projects. The summaries should include the dates and duration of the project, one reference and a brief description of the project. The description is to include, at a minimum, an outline of the complexities of the project and the firm's approach to completing the project. Experience with local, federally funded projects of similar types and sizes should be included in this summary, including consultant staff that worked on the project. Preference is given to project references that demonstrate an understanding by the staff proposed for this project of the type of work relevant in this RFP.

## **C. Qualifications and Availability of Proposed Staff**

Identify specific staff members to be assigned to the project and a table showing the percentage of time that key staff members are available during the course of the project.

Provide a brief summary of the qualifications and experience of each team member assigned, including length of service with the firm and résumé, and the qualifications/experience of any subconsultant staff on your project team. Include an organization chart. Resumes should not be more than two (2) pages for key team members and one page or less for support staff. Describe the current and anticipated workload of each team member. Also include a discussion of project commitments made to other agencies and a table showing the percentage of time key staff members are available during the project.

Include qualifications and experience of any subconsultant(s) to be used. Identify the services which would be completed by your firm's staff and any subconsultant(s).

## **D. Project Understanding and Approach**

Provide a detailed discussion of your firm's approach to the successful implementation of the project. Include thorough discussions of methodologies you believe are essential to accomplishing this project including engineering constraints, milestones, and required approvals relating to the projects. Include a proposed work schedule to accomplish all the required tasks within the desired timeline; the schedule should include submittal

review/approval times for the City and other project stakeholders. Identify the staff who would be assigned to each task, including subconsultants.

Provide an outline, from the details in the Scope of Services in Attachment B, of your firm's plan to accomplish the project and include any special services your firm offers to meet the City's need for a timely completion and overall success.

Illustrate to the City how your firm will manage the construction of the project effectively from the initial plan, specification and estimate review to the final punch list and close-out.

Provide a quality assurance review of the draft Plans and Specifications (download the files at <https://www.cityofplacerville.org/rfp-rfq-projects-out-to-bid>), and provide written comments in the form of a summary memorandum and "redline" markups of the plans and specifications. The review must be completed and submitted with the proposal.

#### **E. Contract Exceptions/Deviations**

Provide a written discussion of any objections or concerns related to the Sample Agreement for Engineering Services (see Attachment F). If the Consultant has ever been terminated from a contract, describe the facts and circumstances in detail on a separate sheet.

### **6. EVALUATION CRITERIA**

The primary objective of the City is to select a qualified Consultant CM to perform necessary professional services to successfully manage the construction of the Placerville Drive Pedestrian Connectivity Project at a fair and reasonable cost. The City has established the following criteria for the selection process:

- The selection process shall be fair, open, and competitive.
- Selection shall be based upon demonstrated competence, professional qualifications, experience, and capabilities to perform the required services at a fair and reasonable price. Ranking of the Proposals shall follow the scoring criteria described below.
- After the Proposals are reviewed and ranked, a short list will be prepared by the selection panel, and the City will determine if interviews will be necessary.
- Upon completion of the evaluation process, negotiations will commence with the highest-ranking firm. If negotiations are unsuccessful, then the City will begin negotiations with the second-ranked firm. The City reserves the right to reject any and all Proposals and to negotiate with any responsible, responsive firm. The City is under no obligation to issue contracts for the services described in this RFP.

The following evaluation criteria and rating schedule will be used to rank and determine the most highly qualified firm(s):

<b>Evaluation Criteria</b>	<b>Maximum Points Possible</b>
1. Capabilities / Experience with Similar Projects	30
2. Qualifications and Availability of Proposed Staff	30
3. Project Understanding and Approach	30
4. Ability to Meet Contract Requirements	10
<b>Total Possible Points:</b>	<b>100</b>

Reference checks will be performed at the sole discretion of the selection committee for the top teams selected for interviews.

## **7. SELECTION SCHEDULE**

### Schedule

Deadline for Inquiries	May 2, 2025, 4:00 pm
Proposals Due	May 8, 2025, 3:00 pm
Proposal Evaluation by Review Team	May 9-16, 2025
Interviews	May 20, 2025
Approval of CM Contract	June 24, 2025
Construction Project Advertises	June 2025
Award Construction Contract	August 2025

## **8. SAMPLE AGREEMENT FOR ENGINEERING SERVICES**

Attachment F provides the City’s standard Agreement for Engineering Services for federally-funded projects. Proposers must review the Sample Agreement and be prepared to accept as-is or provide requested exceptions and/or deviations. The City intends to make no substantive changes to the Agreement for Engineering Services unless otherwise necessitated by updates to the contract requirements per Chapter 10 of the Local Assistance Procedures Manual following this solicitation.

Attachment G contains the City’s standard legal notices and contract provisions.

## **9. INQUIRIES**

All inquiries and responses to the Request for Proposals (RFP) should be submitted to:

City of Placerville  
Engineering Department

3101 Center Street  
Placerville, CA 95667

Attention: Melissa Savage, P.E.  
City Engineer  
Email: msavage@cityofplacerville.org

Prospective Proposers are encouraged to promptly notify the City, in writing, of any apparent major inconsistencies, problems, or ambiguities in this RFP by **Friday, May 2, 2025 by 4:00 pm**. Any final addendum will be issued no later than 72 hours prior to the proposal submittal deadline.

## **10. FEE**

In a separate, sealed envelope, Proposers must provide a total cost proposal for all services to be delivered, and a breakdown on costs delineated by tasks as described and outlined in the Scope of Services. A schedule of hourly rates in a cost-plus format for all proposed staff and the amount of time each person will devote to the project must be included. Define any reimbursable expenses requested to be paid by the City. The cost proposal must be in a cost-plus fixed fee format in accordance with current requirements of Chapter 10 of the LAPM. Attachment D includes a sample cost proposal (Exhibit 10-H).

## **11. LIST OF ATTACHMENTS**

- A. Location Map
- B. Scope of Services
- C. DBE Requirements (Exhibit 10-I and 10-O1)
- D. Sample Cost Proposal (Exhibit 10-H)
- E. Disclosure of Lobbying Activities (Exhibit 10-Q)
- F. Sample Agreement for Engineering Services
- G. City Legal Notices

## **12. LIST OF DOCUMENTS AVAILABLE FOR DOWNLOAD**

<https://www.cityofplacerville.org/rfp-rfq-projects-out-to-bid>

Draft (Not for Construction) 95% Plans and Specifications

**ATTACHMENT A**

**LOCATION MAP**

ATTACHMENT A



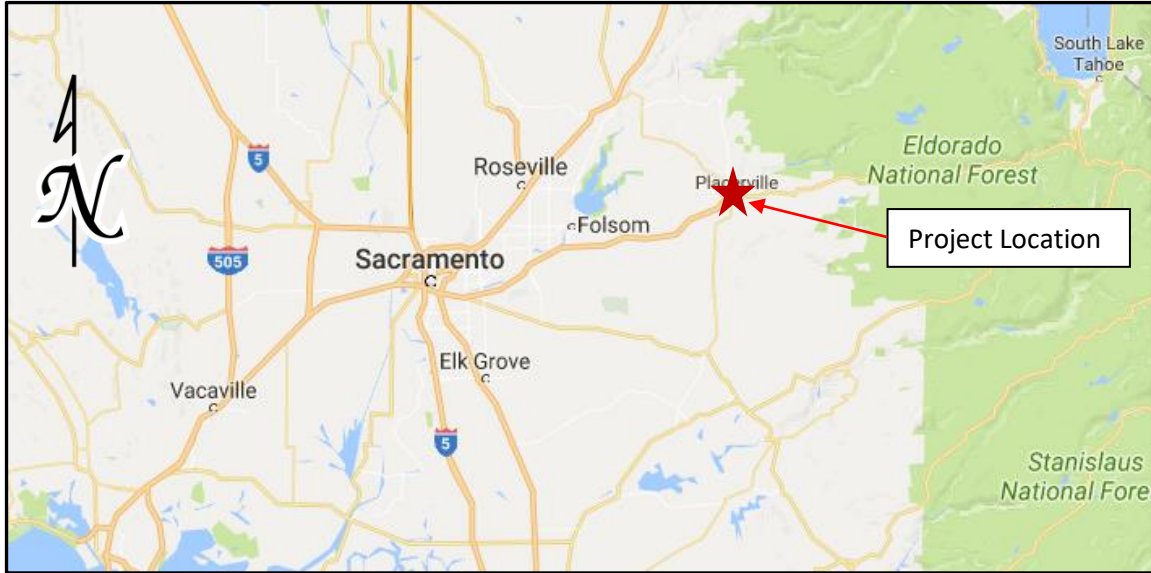
# City of Placerville

Engineering Department

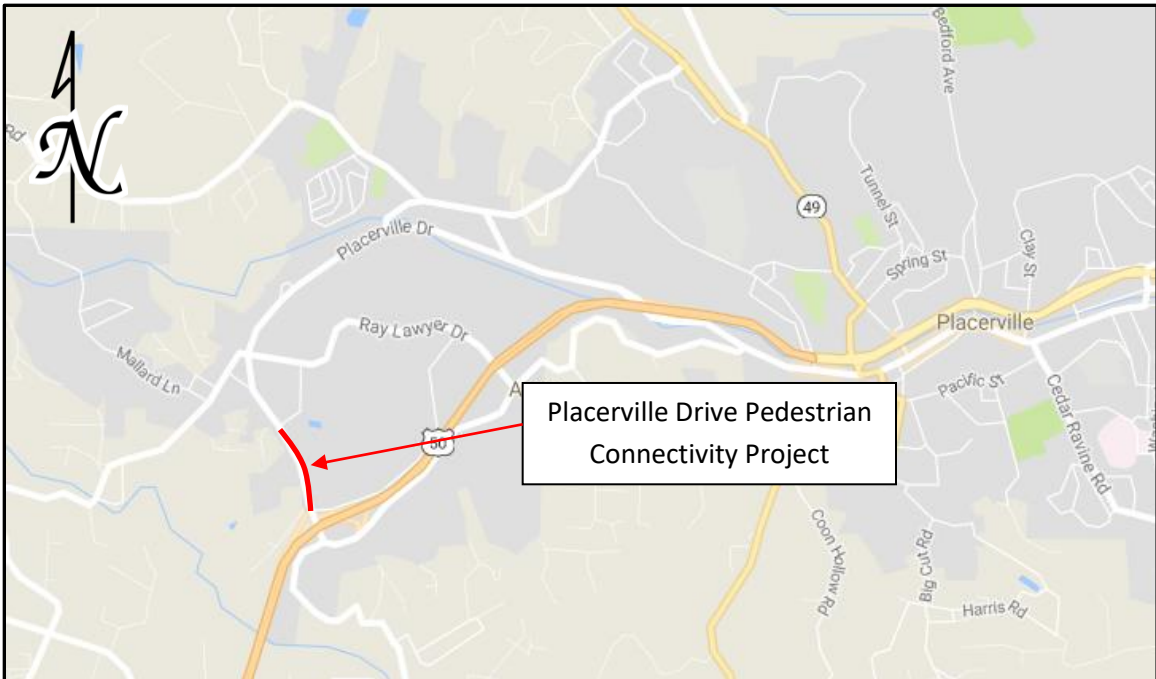
3101 Center Street, Placerville, CA 95667

(530) 642-5250

## Placerville Drive Pedestrian Connectivity



Vicinity Map – No Scale



Project Location Map – No Scale

**ATTACHMENT B**

**SCOPE OF SERVICES**



**ATTACHMENT B**  
**SCOPE OF SERVICES**

**PROJECT BACKGROUND**

The Placerville Drive Pedestrian Connectivity Project includes the construction of curb, gutter, and sidewalk on one side of Placerville Drive between US 50/Fair Lane and Armory Drive. This is a federally funded pedestrian safety project within the City of Placerville.

Major elements of this project include the following:

- Construction of curb, gutter, and sidewalk
- Minor storm drainage improvements
- Installation of a Rectangular Rapid Flashing Beacon system
- Minor pavement rehabilitation
- Roadway striping and signage

**PROJECT DESCRIPTION**

The CITY is contracting with CONSULTANT to provide professional construction management, inspection, survey quality control, minor environmental mitigation oversight, materials testing and administrative services during construction. Work shall be performed in accordance with applicable CITY and Caltrans standards and standard practice.

**ITEMS OF WORK**

The CITY contracts with the CONSULTANT to provide all required construction engineering services necessary to provide project inspection (including survey quality control and environmental monitoring coordination), materials testing, and construction management services for the Construction Project. The intent of the contract is to have the CONSULTANT provide a Resident Engineer, necessary support staff, equipment and materials for the required services. The work product shall meet the minimum requirements identified in this scope of services.

**General**

The intent of this scope of work is to set forth the requirements and responsibilities of the CONSULTANT for construction management, inspection, material testing, verification, and recommendation for acceptance of improvements of the proposed construction project to assure consistent and satisfactory quality of such improvements in accordance with the approved construction documents.

The CONSULTANT will provide a Construction Manager (CM) and sufficient staff to perform construction administration oversight and inspection services during the construction of the

Construction Project. All CONSULTANT staff shall work under the supervision of the CM. These services will encompass serving as the CITY'S Resident Engineer (RE) to the Construction Contractor and the public with regard to activities at the construction site, interpretation of the requirements of the Construction Contract Documents, assessing the acceptability of the Contractor's work, construction staking quality control and materials testing. The CONSULTANT's CM shall be a licensed Professional Civil Engineer registered in the State of California.

The CONSULTANT's services will include review and analysis of construction documentation prior to bidding, documentation of pre-construction site conditions, interpretation of and Contractor's conformance to the project plans, specifications, contract documents, Caltrans Encroachment Permit, and regulatory permits (if applicable). The CONSULTANT will assess the acceptability of the Contractor's work by contract requirements and standards, visual observation, photo and video documentation and all applicable soil and material testing. When necessary, the CONSULTANT shall issue Notices of Non-Compliance and/or take other action to ensure correction of deficiencies. If safety violations are observed, the CONSULTANT shall take appropriate action to ensure correction of deficiencies. The CONSULTANT shall also manage requests for clarification, coordinate work with the design engineer, as required, and manage the project changes, evaluate Contractor's claims, and prepare progress pay estimates.

The CONSULTANT will not be responsible for the construction staking but will be required to provide quality assurance and verification for vertical and horizontal control accuracy, as necessary; construction staking will be handled through the construction contractor.

All construction management, materials testing, inspection and related activities shall be completed as described in the Construction Management Plan (CMP) Manual prepared by the CONSULTANT specifically for this project and approved by the CITY. In addition to the approved CMP Manual, the CONSULTANT shall perform its activities in accordance with, but not limited to, the following documents:

- a) Project Plans and Specifications
- b) Regulatory Agency Permits (if applicable)
- c) Public Works Inspectors Manual, 7<sup>th</sup> Edition
- d) Caltrans Local Assistance Procedures Manual
- e) Caltrans Construction Manual & Bulletins
- f) Caltrans Standard Test Methods
- g) Caltrans Surveying Manual
- h) Caltrans Manual of Traffic Control for Construction & Maintenance Work Zones
- i) California Manual of Uniform Traffic Control Devices

Time required by the CONSULTANT to reach the designated construction office will not be considered part of the services for which payment will be made.

Time charged by each individual to a contract executed as a result of this Proposal shall be properly documented on CITY approved time sheets. A copy of each time sheet shall be turned in to the CITY no less than every two weeks. Billing shall be on a four-week interval as designated by the CITY.

There shall be no reimbursable expenses on this project unless approved in writing, in advance, by the CITY.

Project inspection, materials testing, construction management, and related construction engineering services shall include the following tasks:

### **Task 1 Construction Management Plan**

The CONSULTANT shall prepare a Construction Management Plan (CMP) for the project for CITY approval. The plan shall indicate the standards and level of effort that the CONSULTANT's staff will adhere to during all phases of this work and describe deliverables to be received by the CITY. At a minimum, the plan shall include the sections listed below:

- a) Project Organization
- b) Meetings
- c) Communications Management
- d) Preparation of Management Reports
- e) Clarifications and Contract Interpretations of Specifications
- f) Submittals/Shop Drawings
- g) Design Modifications
- h) Change Orders
- i) Schedule Management
- j) Claims Management and Resolution
- k) Testing and Testing Documentation
- l) Progress Pay Estimate Preparation
- m) Inspection and Inspection Reporting
- n) Defective Work Correction
- o) Record Drawings
- p) Complaint & Community Relations Procedures
- q) Safety
- r) Photo/Video Documentation
- s) Certified Payroll Review
- t) Special Inspections
- u) Other Tasks

The plan shall describe the level of effort anticipated to be maintained by the Construction Manager (CM) and inspectors for the various activities during the construction period and project closeout. The plan shall describe all deliverables and timing for periodic reports.

#### **Deliverables:**

- *Three copies of final Construction Management Plan due prior to the pre-bid conference.*

### **Task 2 Administration**

The Consultant is to provide construction administration of the project to facilitate the ongoing construction efforts and maintain State and CITY regulations. At a minimum the consultant shall:

- a) Comply with Cal-OSHA regulations regarding safety equipment and procedures, and safety instructions issued by the State.
- b) Provide administrative, management and related services as required to coordinate the work of the contractor, to complete the project in accordance to contract documents, State regulations and in with the CITY's objectives for cost, time and quality. Provide weekly status reports to CITY. Weekly status reports shall include summaries of work with photos that is currently being performed, behind schedule, unresolved deficiencies and defective work, outstanding change orders and status of any claims.
- c) Coordinate with the CITY and all other involved agencies to obtain and comply with all required permits.
- d) Recommend necessary or desirable changes in the construction contractor's scope of work to the CITY, review and evaluate contractor's request for changes, assist in negotiating contractor's proposals, submit recommendations to the CITY supported by field data, and if they are accepted, prepare change orders for signature and the CITY's authorization.
- e) Maintain strict cost accounting records on authorized work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, or other work requiring accounting records.
- f) Develop and implement procedures for the review and processing of applications by contractor for progress and final payments. Make written recommendations to the CITY for Contractor payments.
- g) Consult with the CITY and potentially the design engineer if the contractor requests interpretations of the meaning and intent of the plans and specifications, and assist in the resolution of questions which may arise.
- h) Provide a staffing schedule each month for the following month. This schedule is subject to the CITY's approval.
- i) Manage and coordinate any utility work to be performed by utility agencies (work not part of contractor's responsibilities): EID, PG&E, AT&T and Comcast.

**Deliverables:**

- *Weekly Status Reports*
- *Required permits*
- *Cost Control Program*
- *Cost Accounting Records*
- *Progress Payment Recommendations*
- *Draft and Final Change Orders*
- *Staffing Schedules*
- *Other reports as required*

### **Task 3 Pre-Bid Contract Document and Constructability Review**

CONSULTANT shall perform a quality assurance review the draft 95% PS&E package and provide written comments in the form of a summary memorandum and “redline” markups of the plans and specifications. This review will be completed and submitted with the proposal.

CONSULTANT shall review final contract plans, specifications, permits, agreements, environmental documents and the Resident Engineer files consisting of design engineer memos to Resident Engineer, and technical reports and studies.

CONSULTANT shall prepare a project schedule which includes all preconstruction and construction utility relocations, and notification timelines noted on all permits, agreements, and contract documents. Upon receipt of contractor’s schedule, the RE’s schedule will be updated.

#### **Deliverables:**

- *Quality Assurance review memorandum, comment matrix, and markups*
- *Schedule*

### **Task 4 Documentation of Pre-Construction Conditions**

CONSULTANT shall document pre-construction site conditions using photographs, written notes and video. Special or sensitive areas shall be noted and extra documentation may be required for these special or sensitive areas. Each photo shall be labeled with date, location, detailed description and photographer’s name. Copies of all documentation, including photographs, notes, and video, shall be submitted to the CITY’s Engineer and become the property of the CITY.

#### **Deliverables:**

- *Copies of all documentation, including photographs, notes, and video.*

### **Task 5 Documentation and Record Keeping**

The Consultant shall maintain all documents to provide a detailed account of the construction effort, progress and contractual obligations. The consultant shall provide at a minimum the services below:

- a) Verify that all required bonds and certificate of insurance have been received from the contractor and forwarded to the CITY for approval.
- b) Maintain at the provided office, on a current basis and in good order: a record copy of all contracts, drawings, specifications, addenda, change orders and other modifications; shop drawings, product data, samples, submittals, purchases, materials, equipment, applicable handbooks, maintenance and operating manuals and instructions; and other related documents and revisions which are relevant to the contract work.
- c) During the course of construction, maintain one set of plans with markings and dimensions in red ink to denote field changes or other corrections.
- d) A detailed photographic history of all phases of the project will be maintained on a daily basis. Each photograph will be labeled as to location, direction of view, date,

time and items of interest. The photographs will be maintained in an album and the photographs will be indexed for ease of retrieval. Photos will also be taken of the following:

- Traffic Control
- Disputed work items
- Work that has to be duplicated, replaced or removed
- Completed work
- Extra work

**Deliverables:**

- *Documents required by this section*

**Task 6 Meetings**

Anticipated pre-construction meetings include project review meeting with the CITY and Design Engineer; and a pre-construction meeting with the Contractor, CITY, Design Engineer, Caltrans Encroachment Permit Office, and utility companies. Other anticipated meetings shall include daily discussions between the CM or designated representative and the Contractor; weekly meetings between the CM, contractor, and CITY; and meetings scheduled as needed with utility companies, other groups, or agencies. Consultant shall take minutes of the meetings and distribute them to attendees within one week of the meeting. Meetings shall be held at the offices of the CITY Engineering Department or at a mutually agreeable location determined during the pre-construction meeting.

**Deliverables:**

- *Project Review Meeting with CITY and Design Engineer*
- *Pre-construction meeting with CITY and all applicable parties related to the project.*
- *Weekly meetings with CITY and all applicable parties related to the project.*
- *Any meetings necessary to immediately resolve project issues related to scope, cost, or schedule.*
- *Meeting minutes*

**Task 7 Environmental, Permitting, and Water Pollution Control Plan Support**

The Consultant shall review and perform all activities in conformance with the environmental studies and regulatory permits (if needed) for the project.

CONSULTANT shall have a Qualified Storm Water Pollution Prevention Plan Practitioner (QSP) to oversee the implementation of the project specific Water Pollution Control Plan submitted by the contractor. The Consultant shall provide all oversight and inspections to ensure compliance with the Construction Stormwater General Permit (2022-057-DWQ).

**Deliverables:**

- *Inspection and BMP Monitoring*

### **Task 8 Schedule Review**

The CONSULTANT shall review the Contractor's construction schedule, request updates on a weekly basis and track delays or accelerations based on actual Contractor operations as defined in the CMP. Work with the Contractor to maintain the project schedule to show current conditions and suggest revisions that may be required.

**Deliverable:**

- *Weekly Schedule Review Documentation*

### **Task 9 Cost Control and Monthly Progress Payments**

The CM shall implement necessary procedures for an effective system of cost control to track progress payments, contract change orders, quantity overruns, claims and extra work requests. The Construction Manager shall prepare quantities and estimates for monthly progress payments on or around the 19th of the month, and recommend approval to the CITY. CONSULTANT shall maintain cost accounting records (progress payments, CCO status, etc.) in accordance with CITY Engineering Department procedures. The calculations of quantities and documentation shall be in a form approved by the CITY.

**Deliverable:**

- *Cost Control Tracking Documentation*

### **Task 10 Contract Modifications and Extra Work, Contract Change Orders, Claims**

The CM shall perform the evaluation and administration of all contract modifications, Requests for Information (RFI), contract change orders (CCOs), and claims. The CM shall review all requests for merit, perform an independent estimate, and make recommendations to the CITY for consideration. All contract modifications, extra work, and contract change orders shall be approved by the CITY. If approved, the CM will complete all required documentation to process the change. If the CM receives a notice of claim from the Contractor, the CM shall immediately notify the CITY and work toward a timely resolution of the claim with the Contractor. Status of any outstanding claims will be included with the CONSULTANT's weekly report to the CITY. The CONSULTANT shall support the CITY in any post-completion dispute with the Contractor, rendering reasonable assistance, providing access to its records, but is not intended to retain independent experts.

**Deliverables:**

- *Contract Modification & Extra Work Documentation*
- *Draft CCOs with Recommendation Memorandum*
- *Final CCOs*

### **Task 11 Submittals and Clarifications**

The CM shall issue necessary clarifications and interpretations of the Contract Project Documents in response to Requests for Information (RFI) by the Contractor in a manner as described in the CMP. The CM shall also accept and process submittals, including but not limited to shop drawings, product data and product samples. The CM shall draft a list of required submittals in



accordance with the project Specification for the CITY to review. The list shall be submitted to the CITY no later than 15 days after award of the Contract. The CM shall review those submittals that are appropriate. Submittals requiring review by the CITY or CITY's design engineer shall be logged and transmitted for formal review. Updated submittal logs shall be made available to the CITY upon request. The CM shall be responsible for tracking submittals to assure the submittals are reviewed and returned to the Contractor in a timely manner.

**Deliverables:**

- *Submittal and RFI logs*
- *Documentation for clarification and interpretation of the Project Plans and Specifications*

**Task 12 Field Inspection and Quality Assurance**

The CONSULTANT shall review the work of the Contractor, trade and specialty contractors on the project as it is being performed, until final completion and acceptance by the CITY, to assure that the work performed and materials furnished are in accordance with the Contract Documents.

The CONSULTANT shall provide sufficient inspectors (who are acceptable to the CITY) to adequately inspect all Contractor's construction work. The CM or inspectors shall provide field inspection of Contractor's construction work on a daily basis. The CM or inspectors will review all construction prior to burial and provide for observation of all tests required to be performed by the Contractor or referenced in the Contract Documents. The CM and field inspectors shall monitor the Contractor's performance from the perspective of quality, cost, and schedule, and shall enforce the requirements of applicable Specifications. Daily Inspection Reports and diaries of Contractor's construction activities shall be completed daily and be available to the RE at any time. The CM or designated representative shall compare notes with the Contractor's representative at the end of each day to confirm work that was accomplished or quantities placed.

The CM shall prepare and submit written weekly reports to the CITY describing updates of project process, percent of work completed, percent of funds expended, listing of change orders, and community relations issues. All outstanding deficiencies and claims shall also be noted in the weekly reports until resolved or settled. The CM shall document any defective work until it is repaired to the CM's satisfaction and in accordance with the Contract Documents' applicable specification. Copies of the daily reports from the previous week will be included with the weekly written report.

Daily inspection reports and diaries of Contractor's construction activities shall be completed daily by each inspector and available to the CITY on the next day. The CONSULTANT will document special situations by photograph or video. CONSULTANT shall document any defective work until it is repaired to the CONSULTANT'S and CITY's satisfaction and quality of work is in accordance with the Contract Documents.

Daily inspection reports shall include, at a minimum, the following information: Contractor's activities, weather conditions, discussions with the Contractor, problems and issues dealt with, approved changes, and any other information necessary to create a satisfactory record of the day's activities at the project site in accordance with standard inspection practice.



**Deliverables:**

- *Daily Inspection Reports*
- *Weekly Reports*
- *Monthly Complaint Log*

**Task 13      Testing**

The CONSULTANT shall provide, coordinate, and monitor all fields and laboratory testing of soils, backfill, aggregate base, asphalt, concrete, and other testing required by law, or the Construction Specifications. Caltrans certified technicians shall complete all testing work and all laboratory facilities shall be Caltrans certified to perform the respective tests and be approved by the CITY. The CM will review results of tests, forward copies to the CITY as a part of the weekly reports and work with the Contractor to resolve deficiencies or defective work. All test procedures will be in accordance with the Contract Documents and applicable Specifications.

**Deliverables:**

- *Copies of all testing results*

**Task 14      Construction Surveying**

CONSULTANT shall provide construction staking quality control for Contractor-provided construction staking on the project in accordance with Chapter 12 of the Caltrans Surveys Manual and provide proper monument preservation per County standards. All Construction staking shall be done under the direction of a Professional Land Surveyor.

In addition, the CONSULTANT shall implement a Survey Quality Assurance Program as described in the approved CMP. At a minimum the program will provide for a qualified licensed surveyor to assist the CM in verifying the following vertically and horizontally:

- a) Check Station Line
- b) Check drainage layout
- c) Check subgrade
- d) Check AB grade
- e) Check final road grades
- f) As-built survey

**Task 15      Final Completion and Acceptance**

After the project is substantially complete, the CM will schedule a walk through with the CITY and shall coordinate preparation of a “punch list” of incomplete or unsatisfactory items and submit the list to the Contractor. Once all work is complete, the CONSULTANT will deliver a statement to the CITY indicating that to the best of the CONSULTANT’S knowledge and belief, after diligent investigation including satisfaction of its other obligations under the agreement, that the project has been completed in accordance with the Project Construction Contract Documents and CONSULTANT recommends acceptance. A Proposed Final Estimate signed by the CM and the Contractor shall accompany the recommendation for acceptance.

**Deliverables:**

- *Notice of Substantial Completion*
- *Punch Lists*
- *Proposed Final pay Estimate*

**Task 16      Other Tasks**

As part of the inspection and construction administration activities, the CONSULTANT shall include the tasks listed below as part of the overall project activities:

- Inspect traffic control and erosion control measures as often as necessary to assure activities meet with the approved plans, encroachment permits, and submittals.
- Provide community outreach effort by providing information on areas to be under construction to CITY for publication on CITY project website, in newspapers and social media or other media, and provide tracking and resolving community complaints.
- Inspect landscaping and other improvements within the right of way and within limits of the project on private property for damage.
- Any damage identified shall be documented and tracked until the Contractor repairs the damage to pre-project conditions or to plans and specifications.
- Review weekly certified payrolls for compliance with State and Federal wage rate requirements as required by Contract Documents. The CONSULTANT shall enforce the requirements of the California Labor Code as they pertain to the Project. The detailed description of the Labor Code requirements is described in Section 7 of the State Standard Specifications. The CONSULTANT shall also review the certified payrolls submitted by the Contractor for full conformance with Section 7 of the State Standard Specifications.
- Notify the CITY of any errors or omissions that are found on the plans or specifications during construction within one working day after such errors are discovered.
- Perform routine evaluations of project-related off-road and heavy duty on-road equipment emissions for compliance by personal ARB certified to perform Visible Emission Evaluations.
- CONSULTANT shall monitor Contractor's coordination with various utility companies, private properties, and Caltrans Encroachment Permit Office, if needed.
- CONSULTANT shall take appropriate action to ensure correction of observed safety violations under the requirements of the CAL OSHA Construction Safety Orders.

**Deliverable:**

- *Documentation of Activities per CMP*

## **Task 17      Project Close Out**

The CONSULTANT shall verify any operating and/or Regulatory Agency permits are obtained and inspections are complied with and completed.

The CONSULTANT will submit to the CITY the following close out items:

- a) All records, maps, and plans maintained by the CONSULTANT during construction.
- b) All approved shop drawings, submittals and manufacturer's literature maintained by the CONSULTANT during the construction project.
- c) One complete electronic set of annotated project progress photographs, ordered chronologically, and videotapes taken before and during construction.
- d) The original set of all inspection reports, summaries, testing documents, meeting minutes, clarifications, schedules, correspondence and other documents related to the construction work as it was being installed.
- e) A set of red line Record Drawings documenting any changes and/or substitutions that have been reviewed for accuracy and completeness by the CONSULTANT and a recommendation for the CITY to accept the Record Drawings.
- f) Claim waiver form and all necessary forms to complete the project close out and final invoice process in accordance with Chapter 17 of the LAPM.

### **Deliverables:**

- *All records, maps and plans maintained during construction.*
- *All shop drawings, submittals, and manufacturer's literature maintained during construction.*
- *Annotated project progress photographs and videotapes taken of construction project.*
- *Record drawings of field changes.*
- *Original inspection reports, summaries, testing documents, meeting minutes, clarifications, schedules, correspondences and other documents of construction.*
- *Red-line record drawings.*

## **CONSULTANT STAFFING**

The CONSULTANT proposes to use \_\_\_\_\_ (name to be proposed as part of response to RFP) as the on-site Construction Manager/Resident Engineer for this contract. Additional staff and subconsultants are to be brought in on an as-needed basis. The CITY maintains the right to request additional staff if, in its opinion, there is inadequate coverage during any phase of the project. In the event there is a need to substitute key personnel by the CONSULTANT for construction management or inspection responsibility, the CONSULTANT shall only substitute personnel after submitting resumes and obtaining specific written approval by the CITY for the replacement staff in these key positions.

The CITY Engineer or designated representative shall have the authority to reject the Construction Manager, field inspection personnel, or testing technicians in the event of unsatisfactory performance by said personnel in the opinion of the CITY. The CONSULTANT shall provide qualified replacement staff acceptable to the CITY.

**ATTACHMENT C**

**DBE REQUIREMENTS (EXHIBITS 10-I and 10-O1)**

**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 \_\_\_\_\_%

**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](#)

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

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

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



**INSTRUCTIONS – CONSULTANT PROPOSAL DBE 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.

**ATTACHMENT D**

**SAMPLE COST PROPOSAL (EXHIBIT 10-H)**

**EXHIBIT 10-H1 COST PROPOSAL** Page 1 of 3

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

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Prime Consultant     Subconsultant     2<sup>nd</sup> Tier Subconsultant

Consultant \_\_\_\_\_

Project No. \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
(Project Manager)*	_____	_____	\$ _____	\$ _____
(Sr. Civil Engineer)	_____	_____	\$ _____	\$ _____
(Envir. Scientist)	_____	_____	\$ _____	\$ _____
(Inspector)**	_____	_____	\$ _____	\$ _____

**LABOR COSTS**

a) Subtotal Direct Labor Costs \$ \_\_\_\_\_

b) Anticipated Salary Increases (see page 2 for calculation) \$ \_\_\_\_\_

c) **TOTAL DIRECT LABOR COSTS** [(a) + (b)] \$ \_\_\_\_\_

**INDIRECT COSTS**

d) Fringe Benefits (Rate: \_\_\_\_\_%) e) Total Fringe Benefits [(c) x (d)] \$ \_\_\_\_\_

f) Overhead (Rate: \_\_\_\_\_%) g) Overhead [(c) x (f)] \$ \_\_\_\_\_

h) General and Administrative (Rate: \_\_\_\_\_%) i) Gen & Admin [(c) x (h)] \$ \_\_\_\_\_

j) **TOTAL INDIRECT COSTS** [(e) + (g) + (i)] \$ \_\_\_\_\_

**FIXED FEE**

k) **TOTAL FIXED FEE** [(c) + (j)] x fixed fee \_\_\_\_\_% \$ \_\_\_\_\_

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

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs			\$	\$
Equipment Rental and Supplies			\$	\$
Permit Fees			\$	\$
Plan Sheets			\$	\$
Test			\$	\$

l) **TOTAL OTHER DIRECT COSTS** \$ \_\_\_\_\_

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

Subconsultant 1: \_\_\_\_\_ \$ \_\_\_\_\_

Subconsultant 2: \_\_\_\_\_ \$ \_\_\_\_\_

Subconsultant 3: \_\_\_\_\_ \$ \_\_\_\_\_

Subconsultant 4: \_\_\_\_\_ \$ \_\_\_\_\_

m) **TOTAL SUBCONSULTANTS' COSTS** \$ \_\_\_\_\_

n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS** [(l)+(m)] \$ \_\_\_\_\_

**TOTAL COST** [(c) + (j) + (k) + (n)] \$ \_\_\_\_\_

**NOTES:**

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

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

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

Direct Labor <u>Subtotal</u> per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	<b>5 Year Contract Duration</b>
\$250,000.00	5000		\$50.00	Year 1 Avg Hourly Rate

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

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

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

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	20.0%	*	5000	=	1000	Estimated Hours Year 1
Year 2	40.0%	*	5000	=	2000	Estimated Hours Year 2
Year 3	15.0%	*	5000	=	750	Estimated Hours Year 3
Year 4	15.0%	*	5000	=	750	Estimated Hours Year 4
Year 5	10.0%	*	5000	=	500	Estimated Hours Year 5
Total	100%		Total	=	5000	

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

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

**NOTES:**

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

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

**Certification of Direct Costs:**

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

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

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

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

**Prime Consultant or Subconsultant Certifying:**

Name: \_\_\_\_\_ Title \*: \_\_\_\_\_

Signature : \_\_\_\_\_ Date of Certification (mm/dd/yyyy): \_\_\_\_\_

Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address: \_\_\_\_\_

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

List services the consultant is providing under the proposed contract:

**EXHIBIT 10-H2 COST PROPOSAL** Page 1 of 3

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

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant \_\_\_\_\_  Prime Consultant  Subconsultant  2<sup>nd</sup> Tier Subconsultant

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

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

Fee	=	%
-----	---	---

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

(Add pages as necessary)

NOTES:

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

**EXHIBIT 10-H2 COST PROPOSAL** Page 2 of 3

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

Consultant \_\_\_\_\_  Prime Consultant  Subconsultant

Project No. \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

<b>SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)</b>				
<b>Description of Item</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Total</b>
Mileage Costs			\$	\$
Equipment Rental and Supplies			\$	\$
Permit Fees			\$	\$
Plan Sheets			\$	\$
Test			\$	\$
Vehicle			\$	\$
Subconsultant 1:				\$
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$
Subconsultant 5:				\$

Note: Add additional pages if necessary.

NOTES:

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

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



EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3

**Certification of Direct Costs:**

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

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

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

**Prime Consultant or Subconsultant Certifying:**

Name: \_\_\_\_\_ Title \*: \_\_\_\_\_

Signature : \_\_\_\_\_ Date of Certification (mm/dd/yyyy): \_\_\_\_\_

Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address: \_\_\_\_\_

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

List services the consultant is providing under the proposed contract:

**EXHIBIT 10-H3 COST PROPOSAL** Page 1 of 2

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

Note: Mark-ups are Not Allowed

Prime Consultant     Subconsultant     2<sup>nd</sup> Tier Subconsultant

Consultant \_\_\_\_\_

Project No. \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

**Unit/Item of Work:**

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

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

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

Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			\$	\$
ODC Example: Mobilization/De-mobilization			\$	\$
ODC Example: Supplies/Consumables			\$	\$
ODC Example: Report			\$	\$
ODC (List more ODCs as applicable)			\$	\$
Subconsultant 1:				\$
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$
Subconsultant 5:				\$

Note: Attach additional pages if necessary.

**TOTAL COST PER UNIT OF WORK** \$ \_\_\_\_\_

NOTES:

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

**EXHIBIT 10-H3 COST PROPOSAL** Page 2 of 2

**Certification of Direct Costs:**

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

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

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

**Prime Consultant or Subconsultant Certifying:**

Name: \_\_\_\_\_ Title\*: \_\_\_\_\_

Signature : \_\_\_\_\_ Date of Certification (mm/dd/yyyy): \_\_\_\_\_

Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address: \_\_\_\_\_

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

List services the consultant is providing under the proposed contract:

**ATTACHMENT E**

**DISCLOSURE OF LOBBYING ACTIVITIES**

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

<b>1. Type of Federal Action:</b>		<b>2. Status of Federal Action:</b>		<b>3. Report Type:</b>	
<input type="checkbox"/>	a. contract	<input type="checkbox"/>	a. bid/offer/application	<input type="checkbox"/>	a. initial
	b. grant		b. initial award		b. material change
	c. cooperative agreement		c. post-award	<b>For Material Change Only:</b>	
	d. loan			year _____ quarter _____	
	e. loan guarantee			date of last report _____	
	f. loan insurance				
<b>4. Name and Address of Reporting Entity</b>			<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>		
<input type="checkbox"/>	Prime	<input type="checkbox"/>	Subawardee		
			Tier _____, if known		
Congressional District, if known _____			Congressional District, if known _____		
<b>6. Federal Department/Agency:</b>			<b>7. Federal Program Name/Description:</b>		
			CFDA Number, if applicable _____		
<b>8. Federal Action Number, if known:</b>			<b>9. Award Amount, if known:</b>		
<b>10. Name and Address of Lobby Entity</b> (If individual, last name, first name, MI)			<b>11. Individuals Performing Services</b> (including address if different from No. 10) (last name, first name, MI)		
(attach Continuation Sheet(s) if necessary)					
<b>12. Amount of Payment (check all that apply)</b>			<b>14. Type of Payment (check all that apply)</b>		
\$ _____	<input type="checkbox"/> actual	<input type="checkbox"/> planned	<input type="checkbox"/>	a. retainer	
			<input type="checkbox"/>	b. one-time fee	
			<input type="checkbox"/>	c. commission	
<b>13. Form of Payment (check all that apply):</b>			<input type="checkbox"/>	d. contingent fee	
<input type="checkbox"/>	a. cash		<input type="checkbox"/>	e. deferred	
<input type="checkbox"/>	b. in-kind; specify: nature _____		<input type="checkbox"/>	f. other, specify _____	
	Value _____				
<b>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:</b>					
(attach Continuation Sheet(s) if necessary)					
<b>16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/></b>					
<b>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.</b>			Signature: _____		
			Print Name: _____		
			Title: _____		
			Telephone No.: _____ Date: _____		
Authorized for Local Reproduction Standard Form - LLL					
<b>Federal Use Only:</b>					

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

**INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES**

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

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

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

**ATTACHMENT F**

**SAMPLE AGREEMENT FOR ENGINEERING SERVICES**

**Attachment F**

**AGREEMENT FOR ENGINEERING SERVICES**

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This AGREEMENT made and entered by and between the City of Placerville, a political subdivision of the State of California (hereinafter referred to as "City") and \_\_\_\_\_, a company duly qualified to conduct business in the State of California, whose principal place of business is \_\_\_\_\_, (hereinafter referred to as "CONSULTANT");

**WITNESSETH**

**WHEREAS**, City has determined that it is necessary to obtain a consultant to provide construction management and inspection services for the Placerville Drive Pedestrian Connectivity Project (CIP #42337).

**WHEREAS**, CONSULTANT has represented to City that it is specially trained, experienced, expert, and competent to perform the special services required hereunder and City has determined to rely upon such representations; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws.

**NOW, THEREFORE**, City and CONSULTANT mutually agree as follows:

**ARTICLE I – SCOPE OF SERVICES**

CONSULTANT agrees to provide environmental and engineering design services to City as those services and deliverables are described in CONSULTANT’S Scope of Work (Exhibit A), incorporated herein and made by reference a part hereof. The approved CONSULTANT’S Cost Proposal is attached hereto (Exhibit B) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.

**ARTICLE II – TERM/PERFORMANCE PERIOD**

This AGREEMENT shall go into effect on **DATE**, contingent upon approval by City Council. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by City and Notification to Proceed has been issued by City’s Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.

The contract shall end on **DATE**, unless extended by an amendment if mutually agreed by both parties hereto, in writing not less than thirty (30) days prior to the expiration of this Agreement.

CONSULTANT is advised that any recommendation by City staff for contract award is not binding on City until the AGREEMENT is fully executed and approved by City Council.

**ARTICLE III – COSTS AND PAYMENTS**

- A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. City will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel,



## Attachment F

equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds City's approved overhead rate set forth in the Cost Proposal. In the event, that City determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by City shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I" of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.

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

City of Placerville  
Engineering Department  
Attn: Melissa Savage  
3101 Center Street  
Placerville, California 95667

- I. The total amount payable by City shall not exceed \$TOTAL

## Attachment F

- J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.
- K. City 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 City as to the designation of tasks to be performed and the results to be accomplished.

### **ARTICLE IV – DEFAULT, TERMINATION AND CANCELLATION**

- A. This AGREEMENT may be terminated by City, provided that City gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, City 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. City may temporarily suspend this AGREEMENT, at no additional cost City, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City 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 City 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, City 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.
- E. Default: Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice.
  - 1. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.
  - 2. Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired.
- F. Bankruptcy: This Agreement, at the option of the City, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of CONSULTANT.
- G. Ceasing Performance: City may terminate this Agreement in the event CONSULTANT ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- H. Termination or Cancellation without Cause: City may terminate this Agreement in whole or in part thirty (30) calendar days upon written notice by City for any reason. If such prior

## **Attachment F**

termination is effected, City will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to CONSULTANT, and for such other services, which City may agree to in writing as necessary for contract resolution. In no event, however, shall City be obligated to pay more than the total amount of the AGREEMENT. Upon receipt of a Notice of Termination, CONSULTANT shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise. In the event of termination for default, City reserves the right to take over and complete the work by AGREEMENT or by any other means.

### **ARTICLE V – COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONSULTANT to CITY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.
- E. All subcontracts in excess of \$25,000 shall contain the above provisions.

### **ARTICLE VI – RETENTION OF RECORDS/AUDIT**

For the purpose of determining compliance with Government Code 8546.7; CONSULTANT, subconsultants, and City shall maintain and make available for inspection 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. The state, State Auditor, City, 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 CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA that are pertinent to the Agreement for audit, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

### **ARTICLE VII – 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 City's Chief Financial Officer.
- B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by City'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 City will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.

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- D. CONSULTANT and subconsultant contracts, including cost proposals and Indirect Cost Rates (ICR), are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by City contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by City at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.
- 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 City Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.
1. During 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, City 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

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this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.

4. CONSULTANT may submit to CITY 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 CITY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO CITY 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 CITY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

### **ARTICLE VIII – SUBCONTRACTING**

CONSULTANT is engaged by City for its unique qualifications and skills as well as those of its personnel.

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between City and any subconsultant(s), and no subagreement shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to City for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from City's obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this AGREEMENT shall be subcontracted without written authorization by City's Contract Administrator, except that, which is expressly identified in the 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 CONSULTANT by City.
- E. Any substitution of subconsultant(s) must be approved in writing by City's Contract Administrator prior to the start of work by the substitute subconsultant(s).
- 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 City shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the City of the contract work and pay

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retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the City. Any delay or postponement of payment may take place only for good cause and with the City'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 IX – EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES**

- A. Prior authorization in writing, by City's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by City'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 as a result of this contract 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 \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, City shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit City 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 City procedures; and credit City 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 City and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by City.
  - 2. Regulation 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.

### **ARTICLE X – 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.

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- 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 City construction sites, at City facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve City 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 Internet site 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:
    - i. The information contained in the payroll record is true and correct.
    - ii. 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 City representative's 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:
    - i. 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.
    - ii. 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 City, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to CITY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
    - iii. The public shall not be given access to certified payroll record by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the City's 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.

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4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by City 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 City 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 City, 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 City 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 City 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 City a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
  2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
  3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
  4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of



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wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:

- i. 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.
  - ii. 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.
  - iii. 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.
  - iv. 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, City 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 City determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if City 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 City.

### G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the City, 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

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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 XI – CONFLICT OF INTEREST**

- A. During the term of this AGREEMENT, CONSULTANT shall disclose any financial, business, or other relationship with City that may have an impact upon the outcome of this AGREEMENT, or any ensuing City construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT, or any ensuing City construction project, which will follow.
- B. CONSULTANT certifies that it has disclosed to City 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 City 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 or economic interest if required by either City ordinance or State law.
- C. 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. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any AGREEMENT to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

### **ARTICLE XII – REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

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

### **ARTICLE XIII – PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING**

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:
  - 1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
  - 2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a

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Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

### **ARTICLE XIV – CHANGES TO AGREEMENT**

- A. 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.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and Notification to Proceed has been provided by City's Contract Administrator.
- C. There shall be no change in the CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is part of this Agreement without prior written approval by the City's Contract Administrator.

### **ARTICLE XV – CONSULTANT TO CITY**

It is understood that the services provided under this Agreement shall be prepared in and with cooperation from City and its staff. It is further agreed that in all matters pertaining to this Agreement, CONSULTANT shall act as CONSULTANT only to the City and shall not act as CONSULTANT to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with CONSULTANT's responsibilities to the City during term hereof.

### **ARTICLE XVI – INDEPENDENT CONSULTANT**

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.

CONSULTANT exclusively assumes responsibility for acts of its employees, associates and subconsultants, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

CONSULTANT shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. City shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to CONSULTANT or its employees.

### **ARTICLE XVII – NOTICE TO PARTIES**

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to City shall be in duplicate and addressed as follows:

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City of Placerville  
Engineering Department  
3101 Center Street  
Placerville, California 95667  
ATTN: Melissa Savage, City Engineer

Or to such other location as the City directs.

Notices to CONSULTANT shall be addressed as follows:

**CONSULTANT**  
**ATTN:**

Or to such other location as the CONSULTANT directs.

### **ARTICLE XVIII – INDEMNITY**

CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless City, 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 City, as determined by a Court of competent jurisdiction. The provisions of this section shall survive termination or suspension of this AGREEMENT.

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 City 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

### **ARTICLE XIX – INSURANCE**

CONSULTANT shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this AGREEMENT, the policies of insurance specified in this Section. Such insurance must have the approval of the City as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A VII (an NR rating is acceptable for Worker's Compensation insurance written with the State Compensation Insurance Fund of California).

- A. Prior to execution of this AGREEMENT and prior to commencement of any work, the CONSULTANT shall furnish the City with certificates of insurance and copies of endorsements providing evidence of coverage for all policies required by the AGREEMENT. The CONSULTANT and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the performance of work under the AGREEMENT not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the City. The maintenance by CONSULTANT and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this AGREEMENT. The failure of CONSULTANT or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of this AGREEMENT. Approval of the insurance by the City shall not relieve or decrease any liability of CONSULTANT.
  1. Commercial General Liability Insurance.

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- a. CONSULTANT shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CONSULTANT'S general liability policies shall be primary and shall not seek contribution from the City's coverage, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction projects, an endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37 (or equivalent), is also required.
  - b. Any failure to comply with reporting provisions of the policies by CONSULTANT shall not affect coverage provided the City.
  - c. Coverage shall state that CONSULTANT insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - d. Coverage shall contain a waiver of subrogation in favor of the City.
2. *Business Automobile Liability.* CONSULTANT shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01 (or equivalent) with a limit of no less than five million dollars (\$5,000,000) per accident.
  3. *Workers' Compensation and Employers' Liability.* CONSULTANT shall maintain Workers' Compensation Insurance and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). CONSULTANT shall submit to City, along with the certificate of insurance, a waiver of subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.
  4. *Professional Liability.* CONSULTANT shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this AGREEMENT, in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this AGREEMENT, and CONSULTANT agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this AGREEMENT.
  5. All Coverages.
    - a. Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.
    - b. All self-insurance, self-insured retentions, and deductibles must be declared and approved by the City.
    - c. Evidence of Insurance - Prior to commencement of work, the CONSULTANT shall furnish the City with certificates, additional insured endorsements, and waivers of subrogation evidencing compliance with the insurance requirements above. The CONSULTANT must agree to provide complete, certified copies of all required insurance policies if requested by the City.
    - d. Acceptability of Insurers - Insurance shall be placed with insurers admitted in the State of California and with an A.M. Best rating of A- VII or higher.
    - e. Subcontractors and Consultants - A category of risk and the applicable insurance requirements will be determined on a "per subcontractor" or "per Consultant" basis, considering the particular work to be done by the subcontractor or

## **Attachment F**

CONSULTANT and the interrelationship of that work to other work being conducted by the CONSULTANT.

6. No other provision of this AGREEMENT or any attachment thereto shall reduce the insurance obligations imposed under this Section.
- B. In addition to any other remedy the City may have, if CONSULTANT fails to maintain the insurance coverage as required in this Section, the City may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and the City may deduct the cost of such insurance from any amounts due or which may become due CONSULTANT under this AGREEMENT.
- C. No policy required by this AGREEMENT shall be suspended, cancelled, terminated by either party, or reduced in coverage or in limits unless CONSULTANT has provided thirty (30) days prior written notice by certified mail, return receipt requested, to the City.
- D. Any deductibles or self-insured retentions in excess of \$10,000 must be declared to, and approved by, the City.
- E. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by CONSULTANT are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by CONSULTANT under the AGREEMENT.

### **ARTICLE XX – CALIFORNIA RESIDENCY**

All independent consultants providing services to the City must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certify that they have a permanent place of business in California. The CONSULTANT will be required to submit a Form 590 prior to execution of an AGREEMENT or City shall withhold seven (7%) percent of each payment made to the CONSULTANT during term of the AGREEMENT. This requirement applies to any AGREEMENT exceeding \$1,500.00.

### **ARTICLE XXI – TAXPAYER IDENTIFICATION NUMBER**

All independent Consultants or Corporations providing services to the City must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

### **ARTICLE XXII – CITY BUSINESS LICENSE**

To conduct business within the City of Placerville CONSULTANT must be in possession of a valid City Business License.

### **ARTICLE XXIII – ADMINISTRATOR**

The City Officer or employee with responsibility for administering this AGREEMENT is the City Engineer, or successor.

### **ARTICLE XXIV – AUTHORIZED SIGNATURES**

The parties to this AGREEMENT represent that the undersigned individuals executing this AGREEMENT on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

### **ARTICLE XXV – PARTIAL INVALIDITY**

If any provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

### **ARTICLE XXVI – 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

## Attachment F

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

- A. Not later than 30 days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by the City Manager of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

### **ARTICLE XXVII – DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION**

- A. CONSULTANT, subrecipient (CITY), 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 CITY 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 supplier
- 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 City in a good faith effort to achieve California's statewide overall DBE goal.

- B. The goal for DBE participation for this AGREEMENT is           %. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in Exhibit 1002: Consultant Contract DBE Commitment attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: *DBE Information – Good Faith Efforts* to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.
- D. Contract Assurance

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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 CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this Agreement or such other remedy as City 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 the CONSULTANT from future proposing as non-responsive.

### 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 City'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 City. Unless the City'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 City:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The City stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the City's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The City 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 City. The written notice to the DBE must request they provide any response within five (5) business days to both the CONSULTANT and the City by either acknowledging their agreement or documenting their reasoning as to why the use of other forces or sources of materials should not occur.



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

### Replacement of DBE Subconsultants

After receiving the City's written authorization of DBE termination request, CONSULTANT must obtain the City'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 City 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:
    - i. Description of scope of work and cost proposal
    - ii. Proposed subcontract agreement and written confirmation of agreement to perform on the Contract
    - iii. 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 City's authorization to terminate the DBE. CONSULTANT may request the City'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:
  - a. 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
  - b. Solicitations of DBEs for performance of work identified
  - c. Correspondence with interested DBEs that may have included contract details and requirements
  - d. Negotiation efforts with DBEs that reflect why an agreement was not reached
  - e. 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
  - f. Copies of each DBE's and non-DBE's price quotes for work identified, as the City may contact the firms to verify solicitation efforts and determine if the DBE quotes are substantially higher
  - g. Additional documentation that supports CONSULTANT's GFE

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

### F. Commitment and Utilization

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

The City shall request CONSULTANT to:

1. Notify the City'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:
  1. Name and business address of each 1st-tier subconsultant
  2. Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
  3. 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 City. On work completion, CONSULTANT shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the City 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 City within 90 days of contract acceptance. The City will withhold \$10,000 until the form is submitted. The City will release the withhold upon submission of the completed form.

In the City's reports of DBE participation to Caltrans, the City 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.

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CONSULTANT must provide written notification to the City 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 City these quarterly evaluations and validations by the 5th of the month for the previous three months of work.

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

The City 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 City evaluations. The City must evaluate DBEs and their CUF performance throughout the duration of a Contract. The City 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 City must share the evaluation results with the CONSULTANT and the DBE. An evaluation could include items that must be remedied upon receipt. If the City 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 City'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 City 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. City may deny payment for the noncompliant portion of the work. City will ask the CONSULTANT to submit a corrective action plan (CAP) to the City within five (5) days of the noncompliant CUF determination. The CAP

## **Attachment F**

must identify how the CONSULTANT will correct the noncompliance findings for the remaining portion of the DBE's work. City 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 City's approval. The City 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 City's Contract Administrator within thirty (30) calendar days.
- L. For projects awarded on or 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 City 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 XXVIII – STATEMENT OF COMPLIANCE**

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

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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 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the CITY 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 CITY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other AGREEMENT.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the CITY 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 XXIX – DEBARMENT AND SUSPENSION CERTIFICATION**

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT 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;

## **Attachment F**

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 City. 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 the Federal Highway Administration.

### **ARTICLE XXX – FUNDING REQUIREMENTS**

- A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only, if sufficient funds are made available to the City 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 the City’s 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. City has the option to terminate the AGREEMENT pursuant to Article IV, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

### **ARTICLE XXXI – INSPECTION OF WORK**

CONSULTANT and any subconsultant shall permit the City, 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 XXXII – 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

## **Attachment F**

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. City may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.
- F. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

### **ARTICLE XXXIII – CLAIMS FILED BY CITY'S CONSTRUCTION CONTRACTOR**

- A. If claims are filed by City'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 City'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 City considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from City. 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 City'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 XXXIV – CONFIDENTIALITY OF DATA**

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

## **Attachment F**

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.

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

### **ARTICLE XXXV – CONTINGENT FEE**

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

### **ARTICLE XXXVI – 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 City Safety Officer and other City representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Section 591 of the Vehicle Code, City 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.
- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

### **ARTICLE XXXVII 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 XXXVIII EVALUATION OF CONSULTANT**

CONSULTANT's performance will be evaluated by City. 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.



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### **ARTICLE XXXIX PROMPT PAYMENT FROM THE CITY TO CONSULTANT**

#### **A. PROMPT PAYMENT FROM CITY TO CONSULTANT**

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

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

#### **B. PROMPT PAYMENT CERTIFICATION**

For projects awarded on or after September 1, 2023: the CONSULTANT must now submit Exhibit 9-P to the City 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.

For projects awarded on or after September 1, 2023: the CONSULTANT must now submit Exhibit 9-P to the City 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.

### **ARTICLE XXXX TITLE VI ASSURANCES**

#### 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:

1. **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.
2. **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.
3. **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

## Attachment F

CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. 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.
5. 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.
6. 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

## Attachment F

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):

4. 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:
  - a) 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.
5. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination 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.\*
6. 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):

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1. 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.
2. 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.\*
3. 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.

(\*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 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 nondiscrimination statutes and authorities, including, but not limited to:

#### Pertinent Non-Discrimination Authorities:

7. 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.
8. 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).
9. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex.
10. 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.
11. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age).
12. 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).
13. 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).
14. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation

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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.

- 15. 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).
- 16. 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.
- 17. 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).
- 18. 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 XXXXI CONSULTANT’S REPORTS**

CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for City’s Contract Administrator to determine if CONSULTANT is performing to expectations or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

CONSULTANT’s Project Manager shall meet with City’s Contract Administrator, as needed, to discuss progress on the AGREEMENT.

**IN WITNESS WHEREOF**, the two parties to this AGREEMENT, who are the before named CONSULTANT and the before named City, 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.

**-- C I T Y O F P L A C E R V I L L E --**

**-- C O N S U L T A N T --**

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

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

\_\_\_\_\_  
M. Cleve Morris, City Manager

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Print Name

## **Attachment F**

Attachments:

Exhibit A: Consultant Scope of Services

Exhibit B: Consultant Cost Proposal

**ATTACHMENT G**

**CITY LEGAL NOTICES**

# **ATTACHMENT G**

## **LEGAL NOTICES**

### **Placerville Drive Pedestrian Connectivity Project (CIP #42337)**

#### **I. MODIFICATION OR WITHDRAWAL OF PROPOSAL**

Any Proposal received prior to the date and time specified above for receipt or Proposals may be withdrawn or modified by written request of the Consultant. To be considered, the modification must be received in writing, and the same number of copies as the original Proposal, prior to the date and time specified above for receipt of Proposals.

**RFP Addendum:** Any changes to the RFP requirements will be made by written addenda by the City and shall be considered part of the RFP. Upon issuance, such addenda shall be incorporated into the agreement documents and shall prevail over inconsistent provisions of earlier issued documentation and be forwarded to prospective Consultants. It will be the Consultants responsibility to assure that all addenda are incorporated into the Proposal as required according to all the terms and conditions for submittal of the Proposal. Any addendum will be posted on the City's website at least 72 hours prior to the Proposal due date and time.

**Verbal Agreement or Conversation:** No prior, current, or post award verbal conversations or agreement(s) with any officer, agent, or employee of the City of Placerville shall affect or modify any terms or obligations of this RFP, or any contract resulting from this procurement.

**Exceptions and Alternatives:** Consultants may not, after exhausting protest avenues, take exception or make alterations to any requirement of the RFP. If alternatives or options are proposed, Consultant must clearly identify such. The City of Placerville expressly reserves the right in its sole discretion to consider such alternatives and to award a contract based thereon if determined to be in the best interest of the City.

Since the City desires to enter into one contract to provide all of the intended services, only those Proposals to provide all requested services will be considered responsive.

#### **II. REJECTION OF PROPOSALS**

Unauthorized conditions, limitations, or provisions attached to a Proposal may cause its rejection. It is recognized that each Proposer may have unique methods of service delivery. It is not the intention of this RFP to disqualify a Proposer due to variations in service delivery that do not affect quality or performance. Any Proposal offering professional services equivalent to or better than that requested will receive full consideration for award.

The City of Placerville reserves the right to reject any and all Proposals received, or to negotiate separately with any source in any manner necessary to serve the best interests of the City of Placerville.

The City of Placerville may elect not to award a contract and will not be responsible for any cost of Proposer associated with preparing the information solicited or obtained.

Non-acceptance of any responsive Proposal will not imply that the Proposal is deficient. Non-acceptance of any Proposal will mean that another accepted Proposal was deemed to be more advantageous to the City of Placerville.

All material submitted becomes the property of the City of Placerville and may be returned only at the City's option.



### **III. PROPOSAL AND CONSULTANT POLICIES**

#### **A. RFP as the Basis for Proposals**

This RFP, including any addenda, will represent the most definitive statement the City of Placerville will make concerning information upon which Proposals are to be based. Any information, verbal or written, which is not contained in this RFP and addenda thereto, will not be considered by the City of Placerville in evaluating the Proposals.

#### **B. Agency Right to Waive Minor Irregularities**

The City of Placerville reserves the right to waive minor irregularities in the proposal process or to modify the selection process and timeline as it deems necessary.

#### **C. Role of Consultant**

The division of work among the selected Consultant and any proposed sub consultant is left to the selected Consultant to identify in assembling a project team. The selected Consultant will be responsible for management, integration, scheduling, control, review and approval of all subcontract work and services for the total project. The selected Consultant will be responsible for the quality and timeliness of all subconsultant work and must coordinate all subconsultant activities. The selected Consultant must keep the City of Placerville apprised of any problems incurred and provide regular progress and budget reports. At The City of Placerville's direction, or as detailed in this RFP, the selected Consultant may be required to coordinate directly with other City of Placerville consultants and contractors.

The selected Consultant will be responsible for assuring that all subcontract work is in conformance with the project's policies, standards, and criteria. Use of any subconsultants not identified in the Proposal will be subject to prior approval by The City of Placerville.

#### **D. Limitation and Award**

The City of Placerville reserves the right to award multiple contracts.

This RFP does not commit the City of Placerville to award a contract. The City of Placerville reserves the right to reject all Proposals. If The City of Placerville rejects all Proposals, the project may be abandoned, re-advertised, or performed in any manner authorized under City ordinance and applicable law.

The contents of the successful Consultant's Proposal will be incorporated into the resulting contract. The City of Placerville's Sample Contract is included in this RFP. The City of Placerville reserves the right to rescind the contract award if the selected Consultant is unable or unwilling to enter into a contract substantially identical to the sample contract within 20 days from the date it is sent to the selected Consultant for execution.

As described in the RFP, the City of Placerville will evaluate the Proposals, establish a rank ordering of the qualified firms for the project, negotiate with the highest-ranked firm, and recommend award of the contract to the City Council.

Proposals will be made available, upon request, for copying or inspection when a recommendation is made for award of the resulting contract.

#### **E. Debarred Bidders**

Proposer, including any of its officers or holders of a controlling interest, is obligated to inform the City of Placerville whether or not it is or has been on any debarred bidders' list maintained by the State of California or any federal agency. Should Proposer be included on such a list during the performance of this project, it must inform the City of Placerville.

#### **F. Disclosure of Proposal Information**

Once submitted, Proposals become a matter of public record. Where a Proposer submits technical or business information that is claimed to be confidential, Proposer must so indicate by delineating each section of the Proposal with the heading "Confidential". The City of Placerville will give consideration to the claim of confidentiality. However, Proposers should understand that the City of Placerville has reservations as to whether any such information is exempt from disclosure under the California Public Records Act (Government Code Section 6250, et seq). The City of Placerville will notify a Proposer if it receives a request for release of information identified as confidential by Proposer. By submitting its Proposal, Proposer agrees that the City of Placerville will not be held liable for complying with the Public Records Act.

#### **G. Use of RFP Ideas**

The City of Placerville reserves the right to use any or all of Proposer's ideas as set forth in its Proposal. Selection or rejection of the Proposal does not affect this right.

#### **H. Facilities and Resources**

Proposer must furnish all equipment, facilities, labor, supervision, and any and all other required materials and services, except as set out in the Project Scope, or as otherwise specified in Consultant's Proposal. No City of Placerville resources in terms of personnel, facilities, or equipment will be provided unless agreed upon in writing.

