



City of  
**Los Banos**  
*At the Crossroads of California*

**REQUEST FOR QUALIFICATIONS**  
**for**  
**ON-CALL ENGINEERING SERVICES FOR**  
**FEDERALLY FUNDED TRANSPORTATION PROJECTS**

Date Released: January 11, 2019

**Questions with regard to submission, process, or proposal  
can be emailed to:**

Greg Pimentel  
Assistant Public Works Director  
[greg.pimentel@losbanos.org](mailto:greg.pimentel@losbanos.org)

**Proposals must be received prior to 4:00 p.m. February 7, 2019  
at the office of City Clerk  
City of Los Banos  
520 J Street  
Los Banos, CA 93635**

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## REQUEST FOR QUALIFICATIONS

### On-Call Engineering Services for Federally Funded Transportation Projects

The City of Los Banos (City) is seeking qualified consulting firms to provide civil engineering services on an on-call basis. The response to this solicitation will be in the form of a Statement of Qualifications.

The City intends to award a single contract for the requested services. Total amount payable to the Consultant shall not exceed \$949,000 and with a performance period of the contract not to exceed 5 years including any amendments.

All qualified firms interested in providing these services are invited to submit their Statement of Qualifications (SOQs). The Consultant's SOQs will be evaluated and ranked according to the criteria provided in Appendix B, "Proposal Evaluation," of this Request for Qualifications (RFQ).

Addenda to this RFQ, if issued, will be sent to all prospective Consultants the City has specifically e-mailed a copy of the RFQ to and will be posted on the City of Los Banos' website at:

[www.losbanos.org](http://www.losbanos.org)

It shall be the Consultant's responsibility to check the City of Los Banos' website to obtain any addenda that may be issued.

The Consultant's attention is directed to Appendix A, "Submittal Requirements."

Submit five (5) hard copies and one (1) electronic copy in PDF format on a CD/DVD of the Consultant's SOQs. The hard copies and CD/DVD shall be mailed or submitted to the City of Los Banos, 520 J Street, Los Banos, CA 93635, prior to **4:00 p.m., Pacific Standard Time (PST), on February 7, 2019**. SOQs shall be submitted in a sealed package clearly marked "**ON-CALL ENGINEERING SERVICES FOR FEDERALLY FUNDED TRANSPORTATION PROJECTS**" and addressed as follows:

City of Los Banos  
Attention: City Clerk  
520 J Street  
Los Banos, CA 93635

Submittals received after the time and date specified above will be considered nonresponsive and will be returned to the Consultant.

Any proposals received prior to the time and date specified above may be withdrawn or modified by written request of the Consultant. To be considered, however, the modified submittal must be received prior to **4:00 p.m., PST, on February 7, 2019**.

Unsigned submittals or submittals signed by an individual not authorized to bind the prospective Consultant will be considered nonresponsive and rejected.

Upon review of submitted proposals, the Selection Committee will determine whether interviews are necessary to determine a Consultant selection. Interviews will be held with the top three ranked consultants. The City reserves the right to hold interviews or make a Consultant selection based solely on the Statement of Qualifications received.

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

The prospective Consultant is advised that should this RFQ result in recommendation for award of a contract, the contract will not be in force until it is approved and fully executed by the City of Los Banos.

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

The anticipated consultant selection schedule is as follows:

- SOQ review and evaluation: February 11 through March 1, 2019
- Oral interviews (if necessary): March 11 through March 15, 2019
- Cost Negotiation: March 18 through March 22, 2019
- Contract Award: April 17, 2019

Any questions related to this RFQ shall be submitted in writing to the attention of Greg Pimentel via email at [greg.pimentel@losbanos.org](mailto:greg.pimentel@losbanos.org). Questions shall be submitted before 5:00 p.m. on January 30, 2019. Answers to questions shall be posted on the City website before 5:00 PM PST on February 1, 2019. No oral question or inquiry about the RFQ shall be accepted.

## PROJECT DESCRIPTION AND BACKGROUND

The City of Los Banos (CITY) will select a qualified consulting firm to provide on-call engineering services related to federal and state funded projects. The consultant shall provide civil engineering, master project planning, land surveying, construction management/administration services and follow the CITY Standards along with all pertinent State, Federal and CITY rules and regulations.

This solicitation is not for specific projects, but for specific services. The services are to be rendered for the duration of the contract term. The CITY will execute one on-call contract for Civil Engineering Services for federal and state funded projects. The CITY does not guarantee a specific number or dollar amount of projects will be contracted.

## SCOPE OF SERVICES

### PURPOSE OF WORK

The CITY intends to construct multiple transportation projects that are state and federally funded. In order to comply with state and federal regulations and due to limited staffing and expertise, certain services are contracted out. The selected consultant shall perform site investigations, cost estimating, planning, preliminary engineering, civil engineering design, land surveying, construction management and other services as deemed necessary by the CITY for which the consultant is qualified related to federal and state funded projects. The consultant shall only perform work that is assigned in an authorized Task Order. This Contract does not guarantee that a Task Order shall be issued. The consultant may provide services to the CITY including, but not limited to, the following:

Specifically, the consultant selected will be required to complete the following tasks:

- **Project Management** – The Public Works Director/City Engineer will serve as the contract manager and direct liaison between the consultant and Caltrans District #10 Division of Local Assistance. The consultant shall be responsible for project management activities throughout the life of the contract and the scope of activities includes but is not limited to, coordinating and being responsible for scheduling meetings, managing the project schedule, preparing and distributing minutes, field reviews, tracking action items for the CITY and consultant sub-contractors, and preparing all submissions for the CITY to submit to Caltrans Local Assistance.
- **Preliminary Engineering Studies** – Develop general project locations and design concepts and related activities needed to establish the parameters for final design such as Geometrics, Hydraulics, Geotechnical, Bridge, Landscape Architecture, Traffic Operations, Electrical, ITS Elements, etc.
- **Surveys and Mapping** – The consultant shall be responsible for data collection, mapping and surveying necessary for preliminary engineering, design, cost estimates, right-of-way impacts, and the level of environmental clearance. The scope of comprehensive base mapping and surveying includes but is not limited to Control Surveys, Aerial Photogrammetry, Limited Design Level Topographic Surveys, Right-of-Way Retracement, and a Record of Survey.
- **Environmental Studies and Documentation** – Complete the environmental review; including submitting the Caltrans Preliminary Environmental Study and preparing any required technical studies to complete the NEPA document. Consultant will assist the CITY in preparing the CEQA document.
- **Utility Coordination** – Submit improvement plans to utility companies in accordance with their requirements. Coordinate utility relocations, including relocation of the utility poles, as needed.
- **Right of Way Phase & Determination** – Consultant shall prepare Request for Authorization to advance project to Right of Way Phase using procedures outlined in the Caltrans Local Assistance

Procedures Manual. When authorized, consultant shall review right-of-way records and establish additional right-of-way along the entire alignment, if necessary.

- **Design** – Design the improvements and prepare the plans, specifications, and estimates in accordance with Caltrans Standards and AASHTO Geometric Design guidelines to achieve project objectives. Consultant shall examine and present project alternatives, as necessary, which complete project goals within construction budget. PS&E shall be submitted to the CITY at 60%, 90%, and final contract documents.
- **Coordination with Adjacent Properties** – Coordinate with adjacent property to establish driveway locations and other modifications required in front of their property such as fence relocations, mailbox relocation, or tree removal.
- **Construction Phase Authorization** – Consultant shall prepare Request for Authorization to advance project to Construction using procedures outlined in the Caltrans Local Assistance Procedures Manual.
- **Bid Process** – Provide an electronic copy of the final approved plans and specifications, a mylar copy of the final approved plans, and a hard copy of the final approved specifications. The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications shall be provided in both Microsoft Word format and PDF format. CITY will be responsible for making copies of contract documents and will distribute to plan rooms and contractors. Consultant shall respond to questions that arise during the bid phase and prepare addendums which will be distributed by the CITY, as necessary.
- **Construction Management** – Consultant shall provide construction management and construction observation services during construction. Construction management scope of activities including but not limited to, convene a pre-construction meeting with CITY, contractors, utility company representatives, etc., perform construction staking, construction observation during construction, daily field reports, prepare and maintain detailed documentation including photographs and/or video if warranted, convene construction progress meetings as required, review contractor pay requests, review proposed change orders, review and recommend final acceptance of project by CITY.
- **Grant Administration** – Consultant shall prepare and submit Requests for Authorization (RFA) to Caltrans Local Assistance for the various phases of work including, but not limited to the following:
  - Preliminary Engineering (PE)
  - Right of Way (R/W)
  - Utility Relocation (RW/UTIL)
  - Construction (CON)

Consultant shall prepare and submit Award Package and Final Report of Expenditures to Caltrans and shall assist the City on the preparation of Federal and State invoices.

These services shall be in accordance with Caltrans Standards, FHWA Standards, and the City's Standards.

### TASK ORDERS

All work performed under this contract will require approval by the CITY Contract Administrator and issued through a Task Order. A task order shall be requested from the CONSULTANT to identify and refine the scope of services prior to the CITY issuing the task order. The task order shall identify and refine the scope of services for any specific project. The task order shall detail the tasks required for particular projects, schedule, DBE commitment, and projected costs. The costs will be based on the specified rates of compensation in the contract. The Contract Administrator shall confer with the consultant to establish the maximum fee, including expenses, for the specific project and the completion date.

Pursuant to an authorized Task Order, the consultant shall provide engineering services and all necessary personnel, material, transportation, lodging, instrumentation, and the specialized facilities and equipment necessary to satisfy all appropriate agencies and required to ensure compliance with all applicable Federal, State, and Local statutes, laws, codes, regulations, policies, procedures, ordinances, standards, specifications, performance standards, and guidelines, applicable to the consultant's services and work product. The consultant is responsible for supplying and providing all necessary equipment and protective clothing in accordance with CITY standards.

The potential projects may vary in scope and size, and may encompass any type of improvement for the transportation system including, but not limited to, roadway rehabilitation, widening and/or realignment of existing facilities, relocation of existing facilities, and construction of new facilities. The project location, project limits, purpose, expected results, project deliverables, period of performance, project schedule, and scope of work to be performed shall be described in each Task Order.

The consultant shall only perform work that is assigned in an authorized Task Order and an award of a contract does not guarantee any Task Orders will be issued. Work shall not begin until the Task Order has been approved by the Contract Administrator.

The consultant shall maintain a set of project files that shall be provided to the CITY upon request.

The consultant shall have the ability to respond in a timely and cost-efficient manner to CITY requests.

#### GENERAL PERSONNEL REQUIREMENTS

The consultant's personnel shall be capable, competent, and experienced in performing the types of work in this Contract with minimal instruction. Personnel skill level should match the specific job classifications, as set forth herein or in the consultant's Cost Proposal and task complexity. The consultant's personnel shall be knowledgeable about, and comply with, all applicable Federal, State, and Local laws and regulations.

The consultant responsible person shall be a qualified professional civil engineer experienced with design and administration of federal and state funded transportation projects and shall be currently employed by the consultant or its Subconsultants at the time the deliverables are submitted to the CITY for consideration under the review and acceptance process.

The consultant is required to submit a written request and obtain the CITY's Contract Administrator's prior written approval for any substitutions, additions, alterations, or modifications to the consultant's originally proposed personnel and project organization, as depicted on the proposed consultant's organization chart or the consultant's cost proposals. The substitute personnel shall have the same job classification as set forth herein or in the consultant's Cost Proposal not exceed the billing rate, and meet or exceed the qualifications and experience level of the previously assigned personnel, at no additional cost to the CITY. The substitute personnel shall have significant experience in the work involving a similar transportation facility for at a minimum two (2) previous project, unless otherwise approved by the CITY's Contract Administrator.

The consultant Contract Manager shall be a Registered Professional Engineer licensed in the State of California in good standing with the California State Board for Professional Engineer, Land Surveyors, and Geologists at all times during the Contract period, to perform the tasks described in this Contract and in the Task Orders and shall have a documented minimum ten (10) years of demonstrated experience acceptable to CITY in management and delivery of federally funded transportation projects for local agencies.

In addition to other specified responsibilities, the consultant Project Manager shall be responsible for all matters related to the consultant's personnel, subconsultants, and consultant's and sub-consultants' operations including, but not limited to, the following:

- a. Ensuring that deliverables are clearly defined and those criteria are specific, measurable, attainable, realistic and time-bound.
- b. Supervising, reviewing, monitoring, training, and directing the consultant's and sub-consultants' personnel.
- c. Assigning qualified personnel to complete the required Task Order work in coordination with the CITY Contract Administrator.
- d. Administering personnel actions for consultant personnel and ensuring appropriate actions taken for Subconsultant personnel
- e. Maintaining and submitting organized project files for record tracking and auditing.
- f. Developing, organizing, facilitating, and attending scheduled coordination meetings, and preparation and distribution of meeting minutes.
- g. Implementing and maintaining quality control procedures to manage conflicts, insure product accuracy, and identify critical reviews and milestones.
- h. Assuring that all applicable safety measures are in place.
- i. Providing invoices in a timely manner and providing monthly Contract expenditures.
- j. Reviewing invoices for accuracy and completion before billing to CITY.
- k. Managing Subconsultants.
- l. Managing overall budget for Contract and provide report to the CITY Contract Administrator.
- m. Monitoring and maintaining required DBE involvement.
- n. Ensuring compliance with the revisions in the Contract and all specific Task Order requirements.
- o. Knowledge, experience, and familiarity with prevailing wage issues and requirements in the State of California.

#### DELIVERABLES

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

#### SCHEDULE

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

#### METHOD OF PAYMENT

Consultant shall be paid based on the Specific Rates of Compensation for this Contract and for the amount as agreed upon by the CITY and consultant in a Task Order for each project. Consultant shall submit request for monthly progress payments.

#### MATERIALS TO BE PROVIDED BY THE CONSULTANT

Unless otherwise specified, the consultant shall provide all materials to complete the required work in accordance with the delivery schedule and cost estimate outlined in each Task Order.

## APPENDIX A – SUBMITTAL REQUIREMENTS

These guidelines are provided for standardizing the preparation and submission of Statement of Qualifications (SOQ's) by all consultants. The intent of these guidelines is to assist consultants in preparation of their qualifications, to simplify the review process, and to help assure consistency in format and content.

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

### 1. Introductory Letter

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

Mark Fachin, Public Works Director/City Engineer  
411 Madison Ave  
Los Banos, CA 93635

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

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

### 2. Consultant Information, Qualifications & Experience

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

1. Contracting agency
2. Contracting agency Project Manager/Contact Person including name, address and phone
3. Contracting agency contact information
4. Contract amount
5. Funding source
6. Date of contract
7. Date of completion
8. Consultant Project Manager and contact information

Describe and list demonstrated experience on projects administered by Caltrans Local Assistance and funded by State and/or Federal funds.

**\*Please Note:** Firm must have previous experience administering State and Federal funding programs including but not limited to RSTP, CMAQ, HSIP, ATP, etc. Experience must relate to Caltrans Local Assistance projects occurring within the past three (3) years.

### 3. Organization and Approach

1. Describe the roles and organization of your proposed team for this project. Indicate the composition of subcontractors and number of project staff, facilities available and experience of your team as it relates to this contract. Provide an organizational chart.
2. Describe your project and management approach.

3. Describe the roles of key individuals on the team. Provide resumes and references for all key team members. Resumes shall show relevant experience, for the Project's Scope of Work, as well as the length of employment with the proposing CONSULTANT. Key members, especially the Project Manager, shall have significant demonstrated experience with this type of project, and should be committed to stay with the project for the duration of the project.
4. Demonstrate that the consultant's project manager and project staff have sufficient availability and/or that consultant has sufficient resources to timely deliver City's Federal and State Funded transportation projects.

#### **4. Past Experience on Municipal Projects**

Include a description of past municipal projects (minimum of five) in which your firm has been involved, for comparable cities including the following:

- Project Description
- Year of Completion
- Construction Cost (or consultant cost, if not an infrastructure project)
- City Contact

#### **5. Conflict of Interest Statement**

Throughout the term of the awarded contract, any person, firm or subsidiary thereof who may provide, has provided or is currently providing design engineering services and/or construction engineering services under a contractual relationship with a construction contractor(s) on any CITY project related to this solicitation.

Similar to the disclosures regarding contractors, all firms are also required to disclose throughout the term of the awarded contract, any design engineering services including claim services, lead project management services and construction engineering services provided to all other clients on any CITY project listed in this solicitation.

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

The consultant shall ensure that there is no conflict before providing services to any construction contractor on any of the CITY's projects related to this solicitation. The submitted documentation will be used for determining potential conflicts of interest. The CITY will use this documentation to determine whether the firm may provide the specified services under this contract.

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

#### **6. Litigation**

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

#### **7. Contract Agreement**

Indicate if the proposing consultant has any issues or needed changes to the proposed contract agreement included as Appendix C.

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

A contract WILL NOT be awarded to a consultant without an adequate financial management and accounting system as required by 49 CFR Part 18, 48 CFR Part 31, and 2 CFR Part 200.

## 8. Federal-Aid Provisions

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

- Sample Cost Proposal (LAPM 10-H2)
- Disclosure of Lobbying Activities (LAPM 10-Q)
- Consultant in Management Support Role Conflict of Interest and Confidentiality Statement (LAPM 10-U)
- Local Agency Proposer DBE Commitment (Consultant Contracts); (LAPM 10-01). ***The CITY has an overall DBE goal of 15% for this Contract.*** Therefore, non-DBE proposers are required to retain DBE consultants for this contract. The DBE consultant(s) shall be listed on Exhibit 10-01.
- Consultant Annual Certification of Indirect Costs and Financial Management System (LAPM 10-K)
- A&E Consultant Financial document Review Request (LAPM 10-A) – this form must be completed and submitted with the following Financial Documents based on selected category:
  - i. Category 1  
Cognizant letter  
Prevailing Wage (PW) Policy for PW Contracts, or
  - ii. Category 2  
Caltrans Acceptance Identification (ID) Number  
Prevailing Wage (PW) Policy for PW Contracts, or
  - iii. Category 3  
Safe Harbor Rate Consultant Certification of Eligibility Contract Costs and Financial Management System (Attachment 1R)  
Questionnaire for Evaluating Consultant's Financial Management System (Attachment 2R)  
Prevailing Wage (PW) Policy for PW Contracts, or
  - iv. Category 4  
FAR Compliant Indirect Cost Rate (ICR) Schedule including FAR References and Disclosure Note  
AASHTO Internal Control Questionnaire (ICQ) Appendix B  
Prevailing Wage (PW) Policy for PW Contracts
  - v. Category 5 – **not applicable for this contract**

This solicitation is financed in whole or in part with Federal funds and therefore subject to Title 49, code of Federal Regulations, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". To ensure equal participation for Disadvantaged Business Enterprise (DBE) groups specified in 49 CFR 26.5, a DBE participation is required. Only participation by certified DBEs will count toward the contract goal for this solicitation. In order to count toward a contract goal, a firm must be certified by the California Unified Certification Program (CUCP) and possess the work codes applicable to the type of work the firm will perform on the Agreement by the SWQ submittal due date. For a list of work codes, go to [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).

It is the proposer's responsibility to verify that the DBE firm is certified as a DBE by the specified SWQ submittal due date and time. For a list of DBEs certified by the CUCP, go to:

[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).

Reference "Statement of Qualifications Submittal Requirements" for detailed information and references to the required forms. Required forms will be made part of the agreement.

Federal and/or State prevailing wage rates may apply. This requirement, if applicable, will be specified in the CONSULTANT Agreement.

Upon award and through completion of the contract, the successful proposing consultant will be required to follow applicable federal-aid requirements and shall complete and submit with the agreement the following forms at the time of award:

- Local Agency Proposer DBE Information (Consultant Contracts) (LAPM 10-02)
- Any other relevant forms required during the project.

Title VI of the Civil Rights Act of 1964: The consultant agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 USC 2000D) and the regulations of the U.S. Department of Transportation issued thereunder in 49 CFR Part 21.

Equal Employment Opportunity: In connection with the performance of the contract, the CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Cost Principles, Financial Management and Accounting System Requirements: Contract Cost Principles and Procedures, 48 CFR, *Federal Acquisitions Regulation Systems* (FAR), Chapter 1, Part 31.000 et seq., shall be used to determine the cost allow ability of individual items. The overhead rate shall be established by an audit by a cognizant government agency or independent CPA firm.

All firms submitting SOQs (prime consultants, joint ventures and subconsultants) must have internal control systems in place that meet Federal requirements for accounting. These systems must comply with requirements of 48 CFR 31, "*Federal Acquisition Regulations, Contract Cost Principles and Procedures*", 23 CFR 172, "*Administration of Negotiated Contracts*", and 49 CFR, Part 18, "*Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*".

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

## 9. Cost Proposal

In order to assure that the CITY is able to acquire professional services based on the criteria set forth in the Brooks Act and Government Code 4526, the SOQ shall include the consultant's Specific Rates of Compensation for this contract. ***The Specific Rates of Compensation shall be provided on the attached LAPM 10-H2 Cost Proposal Form – Specific Rate of Compensation for On-call Contracts (Appendix D) and submitted in a separate sealed envelope from the SOQ.*** The consultant's Specific Rates of Compensation are confidential and shall remain sealed. Upon completion of the consultant selection process, only the cost proposal from the selected consultant shall be opened. All other (unopened) cost proposals shall be returned in accordance with Appendix B.

## APPENDIX B – PROPOSAL EVALUATION

### EVALUATION PROCESS

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

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

The selection process may include oral interviews. The consultant will be notified of the time and place of oral interviews and if any additional information that may be required to be submitted. Interviews will be held with the top three ranked candidates. In the event that the City receives no more than one SWQ, the CITY may opt to not conduct an oral interview.

Upon completion of the evaluation and selection process, only the cost proposal from the most qualified consultant will be opened to begin cost negotiations. All unopened cost proposals will be returned at the conclusion of the procurement process. Upon acceptance of a cost proposal and successful contract negotiations, staff will recommend a contract be awarded.

### EVALUATION CRITERIA

Proposals will be evaluated according to each Evaluation Criteria, and scored on a zero to five point rating. The scores for all the Evaluation Criteria will then be multiplied according to their assigned weight to arrive at a weighted score for each proposal. A submittal with a high weighted total will be deemed of higher quality than a proposal with a lesser-weighted total. The final maximum score for any proposal is five hundred (500) points.

Rating Scale		
0	Not Acceptable	Non-responsive, fails to meet RFQ specifications. The approach has no probability of success. For mandatory requirement this score will result in disqualification of submittal.
1	Poor	Below average, falls short of expectations, is substandard to that which is the average or expected norm, has a low probability of success in achieving project objectives per RFQ.
2	Fair	Has a reasonable probability of success, however, some objectives may not be met.
3	Average	Acceptable, achieves all objectives in a reasonable fashion per RFQ specification. This will be the baseline score for each item with adjustments based on interpretation of submittal by Evaluation Committee members.
4	Above Average/Good	Very good probability of success, better than that which is average or expected as the norm. Achieves all objectives per RFQ requirements and expectations.
5	Excellent/Exceptional	Exceeds expectations, very innovative, clearly superior to that which is average or expected as the norm. Excellent probability of success and in achieving all objectives and meeting RFQ specification.

The Evaluation Criteria Summary and their respective weights are as follows:

No.	Written Evaluation Criteria	Weight
1	Completeness of Response	Pass/Fail
2	Qualifications & Experience	30
3	Organization & Approach	15
4	Past Experience on Municipal Projects	20
5	Staff Availability	10
6	Conflict of Interest Statement	Pass/Fail
7	Familiarity with State & Federal Procedures	10
8	References	15
<b>Subtotal:</b>		<b>100</b>

No.	Interview Evaluation Criteria (if interviews are necessary)	Weight
9	Presentation by Team	10
10	Q&A Response to Panel Questions	15
<b>Subtotal:</b>		<b>25</b>
<b>Total:</b>		<b>125</b>

**1. Completeness of Response (Pass/Fail)**

- a. Responses to this RFQ must be complete. Responses that do not include the proposal content requirements identified within this RFQ and subsequent addenda and do not address each of the items listed below will be considered incomplete, be rated a Fail in the Evaluation Criteria and will receive no further consideration. Responses that are rated a Fail and are not considered may be picked up at the delivery location within 14 calendar days of contract award and/or the completion of the competitive process.

**2. Qualifications & Experience (30 points)**

- a. Relevant experience, specific qualifications, and technical expertise of the firm and sub-consultants to conduct civil engineering services on both federal and non-federal aid projects.

**3. Organization & Approach (15 points)**

- a. Describes familiarity of project and demonstrates understanding of work completed to date and project objectives moving forward
- b. Roles and Organization of Proposed Team
  - i. Proposes adequate and appropriate disciplines of project team.
  - ii. Some or all of team members have previously worked together on similar project(s).
  - iii. Overall organization of the team is relevant to CITY needs.
- c. Project and Management Approach
  - i. Team is managed by an individual with appropriate experience in similar projects. This person’s time is appropriately committed to the project.

- ii. Team successfully addresses Site Planning and Programming efforts.
  - iii. Project team and management approach responds to project issues. Team structure provides adequate capability to perform both volume and quality of needed work within project schedule milestones.
- d. Roles of Key Individuals on the Team
  - i. Proposed team members, as demonstrated by enclosed resumes, have relevant experience for their role in the project.
  - ii. Key positions required to execute the project team's responsibilities are appropriately staffed.
- e. Working Relationship with CITY
  - i. Team and its leaders have experience working in the public sector and knowledge of public sector procurement process.
  - ii. Team leadership understands the nature of public sector work and its decision-making process.
  - iii. Proposal responds to need to assist CITY during the project.

#### **4. Past Experience on Municipal Projects (20 points)**

- a. Consultant demonstrates experience with performance of services within the comparable cities for projects similar in nature to those related to this solicitation.
- b. Consultant demonstrates successful completion of said projects.
- c. Consultant is familiar with City standards and procedures.

#### **5. Staff Availability (10 points)**

- a. Consultant demonstrates project team staff is available and able to promptly respond to requests throughout the contract duration in order to timely deliver projects.

#### **6. Conflict of Interest Statement (Pass/Fail)**

- a. Discloses any financial, business or other relationship with the CITY that may have an impact upon the outcome of the contract or the construction project.
- b. Lists current clients who may have a financial interest in the outcome of this contract or the construction project that will follow.
- c. Discloses any financial interest or relationship with any construction company that might submit a bid on the construction project.

#### **7. Familiarity with State and Federal Procedures (10 points)**

- a. Demonstrates past experience administering State and Federal funding programs including but not limited to RSTP, CMAQ, HSIP, ATP, etc.
- b. Demonstrates familiarity with the Federal Aid Program and Caltrans Local Assistance.

#### **8. References (15 points)**

- a. Provide as reference the name of at least three (3) agencies you currently or have previously consulted for in the past three (3) years.

#### **9. Presentation by Team (if necessary) (10 points)**

- a. Team presentation conveying project understanding, communication skills, innovative ideas, critical issues and solutions.

**10. Q&A Response to Panel Questions (if necessary) (15 points)**

- a. Proposer provides responses to various interview panel questions.

Weighted scores for each Proposal will be assigned utilizing the table below:

No.	Evaluation Criteria	Rating (0-5)	Weight	Score (Rating * Weight)
1	Completeness of Response	N/A	Pass/Fail	Pass/Fail
2	Qualifications & Experience		30	
3	Organization & Approach		15	
4	Past Experience on Municipal Projects		20	
5	Staff Availability		10	
6	Conflict of Interest Statement		Pass/Fail	
7	Familiarity with State and Federal Procedures		10	
8	References		15	
9	Presentation by Team		10	
10	Q&A Response to Panel Questions		15	
<b>Total:</b>			125	

**APPENDIX C –SAMPLE CONTRACT AGREEMENT**

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF LOS BANOS**

**AND**

**[CONSULTANT NAME]**

**On-Call Engineering Services  
for Federally Funded Transportation Projects**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Los Banos, California, a municipal corporation, (“City,”) and [CONSULTANT NAME], a [ partnership, corporation, etc.] (“Consultant”).

**RECITALS**

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California.

B. City desires to engage Consultant as an independent contractor to provide professional engineering services for specific tasks/projects on short notice as needed to support the City’s Public Works Department/City Engineer.

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement.

D. City desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. **Term.** The term of this Agreement shall commence upon the above written date and shall remain in effect until June 30, 2024, unless terminated earlier as set forth herein. The Consultant’s Cost Proposal is attached hereto (Exhibit A) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this contract, this contract shall take precedence.

2. **Scope of Services.** Services to be performed by Consultant may include the following on an on-call basis upon reasonable notice to Consultant:

2.1 Project Management –The Consultant shall be responsible for project management activities throughout the life of the contract and the scope of activities includes but is not limited to, coordinating and being responsible for scheduling meetings, managing the project schedule, preparing and distributing minutes, field reviews, tracking action items for the City and Consultant sub-contractors, and preparing all submissions for the City to submit to Caltrans Local Assistance.

2.2 Preliminary Engineering Studies – Develop general project locations and design concepts and related activities needed to establish the parameters for final design such as

Geometrics, Hydraulics, Geotechnical, Bridge, Landscape Architecture, Traffic Operations, Electrical, ITS Elements, etc.

2.3 Surveys and Mapping – The consultant shall be responsible for data collection, mapping and surveying necessary for preliminary engineering, design, cost estimates, right-of-way impacts, and the level of environmental clearance. The scope of comprehensive base mapping and surveying includes but is not limited to Control Surveys, Aerial Photogrammetry, Limited Design Level Topographic Surveys, Right-of-Way Retracement, and a Record of Survey.

2.4 Environmental Studies and Documentation – Complete the environmental review; including submitting the Caltrans Preliminary Environmental Study and preparing any required technical studies to complete the NEPA document. Consultant will assist the City in preparing the CEQA document.

2.5 Utility Coordination – Submit improvement plans to utility companies in accordance with their requirements. Coordinate utility relocations, including relocation of the utility poles, as needed.

2.6 Right of Way Phase & Determination – Consultant shall prepare Request for Authorization to advance project to Right of Way Phase using procedures outlined in the Caltrans Local Assistance Procedures Manual. When authorized, consultant shall review right-of-way records and establish additional right-of-way along the entire alignment, if necessary.

2.7 Design – Design the improvements and prepare the plans, specifications, and estimates in accordance with Caltrans Standards and AASHTO Geometric Design guidelines to achieve project objectives. Consultant shall examine and present project alternatives, as necessary, which complete project goals within construction budget. PS&E shall be submitted to the City at 60%, 90%, and final contract documents.

2.8 Coordination with Adjacent Properties – Coordinate with adjacent property to establish driveway locations and other modifications required in front of their property such as fence relocations, mailbox relocation, or tree removal.

2.9 Construction Phase Authorization – Consultant shall prepare Request for Authorization to advance project to Construction using procedures outlined in the Caltrans Local Assistance Procedures Manual.

2.10 Bid Process – Provide an electronic copy of the final approved plans and specifications, a mylar copy of the final approved plans, and a hard copy of the final approved specifications. The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications shall be provided in both Microsoft Word format and PDF format. City will be responsible for making copies of contract documents and will distribute to plan rooms and contractors. Consultant shall respond to questions that arise during the bid phase and prepare addendums which will be distributed by the City, as necessary.

2.11 Construction Management – Consultant shall provide construction management and construction observation services during construction. Construction management scope of activities including but not limited to, convene a pre-construction meeting with City, contractors, utility company representatives, etc., perform construction staking, construction observation during construction, daily field reports, prepare and maintain detailed

documentation including photographs and/or video if warranted, convene construction progress meetings as required, review contractor pay requests, review proposed change orders, review and recommend final acceptance of project by City.

2.12 Grant Administration – Consultant shall prepare and submit Requests for Authorization (RFA) to Caltrans Local Assistance for the various phases of work including, but not limited to the following:

- Preliminary Engineering (PE)
- Right of Way (R/W)
- Utility Relocation (RW/UTIL)
- Construction (CON)

Consultant shall prepare and submit Award Package and Final Report of Expenditures to Caltrans and shall assist the City on the preparation of Federal and State invoices.

These services shall be in accordance with Caltrans Standards, FHWA Standards, and the City's Standards.

2.13 Consultant shall provide such services on an as needed basis when given written instruction to do so by the Public Works Director, or his designee. Consultant shall diligently perform all the services described in the Scope of Services.

2.14 All professional services shall be performed by Consultant or under Consultant's supervision. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional Consultants in accordance with sound professional practices.

2.15 Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

3. **Administration.** The Public Works Director shall administer this Agreement on behalf of the City. The Public Works Director or his/her authorized representative shall represent City in all matters pertaining to the services to be rendered pursuant to this Agreement.

4. **Consultant's Reports or Meetings.** Consultant shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for City's Contract Administrator or Project Coordinator to determine, if Consultant is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

4.1 Consultant's Project Manager shall meet with City's Contract Administrator or Project Coordinator, as needed, to discuss progress on the project(s).

5. **Time of Performance.** Upon receipt of written Notice to Proceed from the City, Consultant shall perform with due diligence the services requested by the city and agreed on by the Consultant. Time is of the essence in the performance of services under this Agreement and the services shall be performed to completion in a diligent and timely manner. The failure by Consultant to perform the services in a diligent and timely manner may result in termination of

this Agreement by City. Notwithstanding the foregoing, Consultant shall not be responsible for delays due to causes beyond Consultant's reasonable control. However, in the case of any such delay in the services to be provided for the Project, each party hereby agrees to provide notice to the other party so that all delays can be addressed.

5.1 Consultant is advised that any recommendation for contract award is not binding on CITY until the contract is fully executed and approved by the City.

5.2 The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this contract, the terms of the contract shall be extended by contract amendment.

6. **Allowable Costs and Payments.** Consultant will be reimbursed for hours worked at the hourly rates specified in Consultants Cost Proposal (Exhibit A). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.

6.1 In addition, Consultant will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the cost proposal and in the executed Task Order.

6.2 Specific projects will be assigned to Consultant through issuance of Task Orders.

6.3 After a project to be performed under this contract is identified by the City, the City will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a City Project Coordinator. The draft Task Order will be delivered to Consultant for review. Consultant shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both the City and Consultant.

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

5.5 Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.

6.6 When milestone cost estimates are included in the approved Cost Proposal, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.

6.7 Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.

6.8 Consultant shall not commence performance of work or services until this contract has been approved by the City, and notification to proceed has been issued by the City's Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this contract.

6.9 A Task Order is of no force or effect until returned to the City and signed by an authorized representative of the City. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by the City.

6.10 Consultant will be reimbursed, as promptly as fiscal procedures will permit upon receipt by the City's Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number, project title and Task Order number. Credits due the City that include any equipment purchased under the provisions of Section 11 Equipment Purchase of this contract, must be reimbursed by Consultant prior to the expiration or termination of this contract. Invoices shall be mailed to the City's Contract Administrator at the following address:

City of Los Banos, Mark Fachin, Public Works Director  
411 Madison Avenue, Los Banos, CA 93635

6.11 The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Contract.

6.12 The total amount payable by the City for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by contract amendment.

6.13 If the Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.

6.14 Task Orders may not be used to amend this Agreement and may not exceed the scope of work under this Agreement.

6.15 The total amount payable by the City for all Task Orders resulting from this contract shall not exceed \$ 949,000.00. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this contract through Task Orders.

## 7. **Cost Principals and Administrative Requirements.**

7.1 Consultant agrees that the Contract cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.

7.2 Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

7.3 Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to the City.

8. **Retention of Records/Audit.** For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21,

Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; Consultant, subconsultants, and the City shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, City, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of Consultant and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

9. **Audit Review Procedures.** Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement shall be reviewed by City's Chief Financial Officer.

9.1 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.

9.2 Neither the pendency of a dispute nor its consideration by the City will excuse Consultant from full and timely performance, in accordance with the terms of this contract.

9.3 Consultant and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by Consultant and approved by the 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 the 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.

10. **Subcontracting.** Nothing contained in this contract or otherwise, shall create any contractual relation between the City and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to the 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 the City's obligation to make payments to the Consultant.

10.1 Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted

without written authorization by the City's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

10.2 Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by the City.

10.3 All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.

10.4 Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

11. **Equipment Purchase.** Prior authorization in writing, by the 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.

11.1 For purchase of any item, service or consulting work not covered in Consultant's Cost Proposal and exceeding \$5,000 prior authorization by the City's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

11.2 Any equipment purchased as a result of this contract is subject to the following: "Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the 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 the 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 the 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 the City and Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the City." 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.

12. **State Prevailing Wage Rates.** Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.

12.1 Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.

12.2 When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

13. **Disadvantaged Business Enterprises (DBE) Participation.** This contract is subject to 49 CFR, Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”. Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

13.1 *The CITY has established an overall DBE goal of 15% for this Contract.* The DBE goal for each specific project will be determined as part of the Task Order. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract. If a DBE subconsultant is unable to perform, Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

13.2 DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as LOCAL AGENCY deems appropriate.

13.3 Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.

13.4 A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, Consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

13.5 A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors.

13.6 A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

13.6 If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

13.7 Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

13.8 Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by Consultant or Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

13.9 If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify Consultant in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within 30 days.

**14. Indemnification.** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, reasonable attorney's fees, disbursements and court costs) of every kind and nature that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them in performance, or non performance, of services under this Agreement.

Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the active negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant.

**15. Insurance.** Without limiting Consultant's indemnification of City, and prior to commencement of work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, a policy or policies of liability insurance of the type and amounts described below and in a form satisfactory to City.

A. Certificates of Insurance. Consultant shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required herein.

Insurance certificates must be approved by the City Attorney prior to commencement of performance or issuance of any permit. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement.

B. Signature. A person authorized by the insurer to bind coverage on its behalf shall sign certification of all required policies.

C. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City Attorney.

D. Coverage Requirements.

i. Workers' Compensation Coverage. Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his or her employees in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by City at least thirty (30) calendar days (10 calendar days written notice of non-payment of premium) prior to such change. The insurer shall agree to waive all rights of subrogation against City, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for City.

ii. General Liability Coverage. Consultant shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, contractual liability. If commercial general liability insurance or other form with a general aggregate limit is used, the general aggregate limit shall be at least twice the required occurrence limit.

iii. Automobile Liability Coverage. Consultant shall maintain automobile insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

iv. Professional Errors and Omissions Insurance. Consultant shall maintain professional errors and omissions insurance, which covers the services to be performed in connection with this Agreement in the minimum amount of one million dollars (\$1,000,000) per claim and not less than two million dollars (\$2,000,000) in the annual aggregate.

E. Endorsements. Each general liability and automobile liability insurance policy shall be endorsed with the following specific language:

i. The City, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising

out of work performed by or on behalf of the Consultant.

ii. This policy shall be considered primary insurance as respects to City, its elected or appointed officers, officials, employees, agents and volunteers as respects to all claims, losses, or liability arising directly or indirectly from the Consultant's operations or services provided to City. Any insurance maintained by City, including any self-insured retention City may have, shall be considered excess insurance only and not contributory with the insurance provided hereunder.

iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

iv. The insurer waives all rights of subrogation against City, its elected or appointed officers, officials, employees, agents and volunteers.

v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its elected or appointed officers, officials, employees, agents or volunteers.

vi. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits, by either party except after thirty (30) calendar days (10 calendar days written notice of non-payment of premium) written notice has been received by City.

15.1 Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

15.2 All subconsultants shall be included as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing subconsultants to purchase the appropriate insurance in compliance with the terms of this Agreement, including adding the City as an Additional Insured to the subconsultant's policies.

16. **Nondiscrimination.** In the performing of this Agreement, Consultant shall not discriminate against any subcontractor, employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation race, religion, color, national origin, handicap, ancestry, sex or age.

17. **Independent Contractor.** It is understood that City retains Consultant on an independent contractor basis and Consultant is not an agent or employee of City. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. Nothing in this Agreement shall be deemed to constitute approval for Consultant or any of Consultant's employees or agents, to be the agents or employees of City. Consultant shall have the responsibility for and control over the means of performing the work, provided that Consultant is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Consultant as to the details of the performance or to exercise a measure of control over Consultant shall mean only that Consultant shall follow the desires of City with respect to the results of the services.

17.1 The Consultant shall at all times remain an independent Contractor with respect to the services to be performed under this Agreement and shall be responsible for the payment of Federal and State Employer Withholding Taxes, Unemployment Insurance Taxes, FICA Taxes, Retirement, Life and/or Medical Insurance, and Worker's Compensation Insurance for the employees of the Consultant or any other person performing services under this Agreement. Consultant and its employees are not entitled to the rights or benefits afforded to City's employees, including disability or unemployment insurance, workers' compensation, medical insurance, sick leave, or any other employment benefit. Consultant agrees to indemnify and hold City harmless from any claims, costs, losses, fees, penalties, interest, or damages suffered by City as a result of any claim by any person or entity contrary to the provisions of this Section.

18. **Ownership of Documents.** All documents, information and materials of any and every type furnished or prepared by the Consultant or any of its subcontractors pursuant to and in the course of performance of this Agreement shall be and remain the sole and exclusive property of the City. Such documents, information and materials shall include but not be limited to all findings, reports, plans, specifications, studies, drawings, estimates, documents, information and data including, but not limited to, electronic media, computer tapes or discs, files, and tapes furnished or prepared or accumulated by the Consultant in performing work under this Agreement, whether completed or in process. City shall have the sole right to use such documents, materials and information in its discretion without further compensation to Consultant or any other party. Consultant shall, at Consultant's expense, provide such documents, materials and information to City upon prior written request.

18.1 All Documents shall be considered works made for hire and all Documents and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of the City without restriction or limitation upon their use, duplication or dissemination by the City. Consultant shall not obtain or attempt to obtain copyright protection as to any Documents.

19. **Confidentiality.** All City information disclosed to Consultant during the course of performance of services under this Agreement shall be treated as confidential and shall not be disclosed to any other persons or parties except as authorized by City, excepting that information which is public record and subject to disclosure pursuant to the Public Records Act, or otherwise required by law. All documents, including drafts, notes and communications that result from the services in this Agreement, shall be kept confidential unless City authorizes in writing the release of information, excepting that information which is public record and subject to disclosure pursuant to the Public Records Act, or otherwise required by law.

20. **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, the 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.

21. **Conflict of Interest.** Consultant shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this contract, or any

ensuing City construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing City construction project, which will follow.

21.1 Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

21.2 Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

21.3 Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

21.4 Consultant hereby certifies that neither Consultant, its employees, nor any firm affiliated with Consultant providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint- ownership, or otherwise.

21.5 Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.

21.6 Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this contract shall have provided services on the design of any project included within this contract.

22. **Assignment.** This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City.

22.1 Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Consultant shall be fully responsible to City for all acts and omissions of the subconsultant. Nothing in this Agreement shall create any contractual relationship between City and subconsultant nor shall it create any obligation on the part of City to pay or to see to the payment of any monies due to any such subconsultant other than as otherwise required by law.

23. **Compliance with Laws, Rules, Regulations.** 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.

23.1 During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age

(over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the 5applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

23.2 The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

23.3 The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT’s Regulations, including employment practices when the Agreement covers a program whose goal is employment.

23.4 Consultant shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers’ compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys’ fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant’s performance under this Agreement.

23.5 Consultant is aware of the requirements of California Labor Code section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the Services are subject to the Prevailing Wage Laws, Consultant agrees to fully comply with such Prevailing Wage Laws.

24. **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 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.

25. **Prohibition of Expending Local Agency State or Federal Funds for Lobbying.** Consultant certifies to the best of his or her knowledge and belief that:

25.1 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.

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

25.3 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.

25.4 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.

26. **Debarment and Suspension Certification.** Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicated, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the City.

Exceptions will not necessarily result in denial of recommendations for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.

27. **Integration; Amendment.** This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in it. This Agreement may not be modified or altered except by amendment in writing sign by both parties.

28. **Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

29. **Waiver/Validity.** Consultant agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver of any other condition of performance under this Agreement. The acceptance by the City of the performance of any work or services by Contractor shall not be deemed to be a waiver of any term or condition of this Agreement.

30. **Jurisdiction.** City and Consultant agree that the law governing this Agreement shall be that of the State of California. Any suit brought by either party against the other arising out of the performance of this Agreement shall be filed and maintained in the County of Merced.

31. **Notice.** Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service, addressed to the parties as follows:

To City:

Mark Fachin  
Public Works Director/City Engineer  
411 Madison Avenue  
Los Banos, California 93635

To Consultant:

NAME  
TITLE  
ADDRESS  
ADDRESS

32. **Disputes.** Any dispute, other than audit, concerning questions of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of the City Contract Administrator and Public Works Director, who may consider written or verbal information submitted by Consultant.

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's Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

Neither the pendency of a dispute, nor is consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this contract.

33. **Termination.** The City reserves the right to terminate this contract upon thirty (30) calendar days written notice to Consultant with the reasons for termination stated in the notice.

33.1 The City may terminate this contract with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the City may proceed with the work in any manner deemed proper by City. If the City terminates this contract with Consultant, the City shall pay Consultant the sum due to Consultant under this contract prior to termination, unless the cost of completion to the City exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due Consultant under this contract and the balance, if any, shall be paid to Consultant upon demand.

[SIGNATURE PAGE BEGINS ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

[CONSULTANT NAME]

**Date:**

\_\_\_\_\_  
**by: [CONSULTANT CONTACT]  
[TITLE]**

**CITY OF LOS BANOS,  
a California municipal corporation**

**Date:**

\_\_\_\_\_  
**by: Alex Terrazas  
City Manager**

**ATTEST:  
CITY CLERK**

\_\_\_\_\_  
**Lucille L. Mallonee  
City Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**William A. Vaughn  
City Attorney**

## **APPENDIX D – REQUIRED LOCAL ASSISTANCE EXHIBITS**

EXHIBIT 10-H2	SAMPLE COST PROPOSAL
EXHIBIT 10-I	NOTICE OF PROPOSERS DBE INFORMATION
EXHIBIT 10-K	CONSULTANT ANNUAL CERTIFICATION OF INDIRECT COSTS AND FINANCIAL MANAGEMENT SYSTEM
EXHIBIT 10-A	A&E CONSULTANT FINANCIAL DOCUMENT REVIEW REQUEST
EXHIBIT 10-01	CONSULTANT DBE COMMITMENT
EXHIBIT 10-02	CONSULTANT CONTRACT DBE COMMITMENT
EXHIBIT 10-Q	DISCLOSURE OF LOBBYING ACTIVITIES
EXHIBIT 10-U	CONSULTANT IN MANAGEMENT SUPPORT ROLE CONFLICT OF INTEREST AND CONFIDENTIALITY STATEMENT

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

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

Note: Mark-ups are Not Allowed

CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS

Consultant \_\_\_\_\_  Prime Consultant  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	=	%
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**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 - or 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		
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00		
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		
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00		
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		
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00		
Land Surveyor	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		
	\$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%	
Technician	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		
	\$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%	

NOTES:

1. 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 should be based on the consultant's annual accounting period, 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.

**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-I NOTICE TO PROPOSERS DBE INFORMATION**

The Agency has established an overall goal of 15% for this Contract. The DBE goal for each specific project will be determined as part of the Task Order.

### **1. TERMS AS USED IN THIS DOCUMENT**

The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.

The term “Agreement” also means “Contract.”

Agency also means the local entity entering into this contract with the Contractor or Consultant.

The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

### **2. AUTHORITY AND RESPONSIBILITY**

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

### **3. SUBMISSION OF DBE INFORMATION**

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Request for 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 the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

### **4. DBE PARTICIPATION GENERAL INFORMATION**

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

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

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

## 5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Business and Economic Opportunity Web site at: <http://www.dot.ca.gov/hq/bep/>.
  - 1. Click on the link titled Disadvantaged Business Enterprise;
  - 2. Click on Search for a DBE Firm link;
  - 3. Click on Access to the DBE Query Form located on the first line in the center of the page.

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

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

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

**EXHIBIT 10-K CONSULTANT ANNUAL CERTIFICATION OF  
INDIRECT COSTS AND FINANCIAL MANAGEMENT SYSTEM**

*(Note: If a Safe Harbor Indirect Cost Rate is approved, this form is not required.)*

**Consultant's Full Legal Name:** \_\_\_\_\_

**Important:** Consultant means the individual or consultant providing engineering and design related services as a party of a contract with a recipient or sub-recipient of Federal assistance. Therefore, the Indirect Cost Rate(s) shall not be combined with its parent company or subsidiaries.

**Indirect Cost Rate:**

Combined Rate \_\_\_\_\_ % **OR**

Home Office Rate \_\_\_\_\_ % and Field Office Rate (if applicable) \_\_\_\_\_ %

Facilities Capital Cost of Money \_\_\_\_\_ % (if applicable)

**Fiscal period** \* \_\_\_\_\_

\* Fiscal period is annual one year applicable accounting period that the Indirect Cost Rate was developed (not the contract period). The Indirect Cost Rate is based on the consultant's one-year applicable accounting period for which financial statements are regularly prepared by the consultant.

I have reviewed the proposal to establish an Indirect Cost Rate(s) for the **fiscal period** as specified above and have determined to the best of my knowledge and belief that:

- All costs included in the cost proposal to establish the indirect cost rate(s) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) 48, Code of Federal Regulations (CFR), Chapter 1, Part 31 (48 CFR Part 31);
- The cost proposal does not include any costs which are expressly unallowable under the cost principles of 48 CFR Part 31;
- The accounting treatment and billing of prevailing wage delta costs are consistent with our prevailing wage policy as either direct labor, indirect costs, or other direct costs on all federally-funded A&E Consultant Contracts.
- All known material transactions or events that have occurred subsequent to year-end affecting the consultant's ownership, organization, and indirect cost rates have been disclosed as of the date of this certification.

I am providing the required and applicable documents as instructed on Exhibit 10-A.

**Financial Management System:**

Our labor charging, job costing, and accounting systems meet the standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred, appropriately accounted for, are allocable to the contract, and comply with the federal requirements as set forth in [Title 23 United States Code \(U.S.C.\) Section 112\(b\)\(2\); 48 CFR Part 31.201-2\(d\); 23 CFR, Chapter 1, Part 172.11\(a\)\(2\)](#); and all applicable state and federal rules and regulations.

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost

accounts;

- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;
- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR;
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirement

**Cost Reimbursements on Contracts:**

I also understand that failure to comply with 48 CFR Part 16.301-3 or knowingly charge unallowable costs to Federal-Aid Highway Program (FAHP) contracts may result in possible penalties and sanctions as provided by the following:

- Sanctions and Penalties - [23 CFR Part 172.11\(c\)\(4\)](#)
- False Claims Act - [Title 31 U.S.C. Sections 3729-3733](#)
- Statements or entries generally - [Title 18 U.S.C. Section 1001](#)
- Major Fraud Act - [Title 18 U.S.C. Section 1031](#)

**All A&E Contract Information:**

- Total participation amount \$\_\_\_\_\_ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is\_\_\_\_\_.
- Years of consultant’s experience with 48 CFR Part 31 is\_\_\_\_\_.
- Audit history of the consultant’s current and prior years (if applicable)

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Cognizant ICR Audit | <input type="checkbox"/> Local Gov’t ICR Audit   | <input type="checkbox"/> Caltrans ICR Audit |
| <input type="checkbox"/> CPA ICR Audit       | <input type="checkbox"/> Federal Gov’t ICR Audit |   |

I, the undersigned, certify all of the above to the best of my knowledge and belief and that I have reviewed the Indirect Cost Rate Schedule to determine that any costs which are expressly unallowable under the Federal cost principles have been removed and comply with [Title 23 U.S.C. Section 112\(b\)\(2\)](#), [48 CFR Part 31](#), [23 CFR Part 172](#), and all applicable state and federal rules and regulations. I also certify that I understand that all documentation of compliance must be retained by the consultant. I hereby acknowledge that costs that are noncompliant with the federal and state requirements are not eligible for reimbursement and must be returned to Caltrans.

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

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

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

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

Note: ***Both prime and subconsultants as parties of a contract must complete their own Exhibit 10-K forms. Caltrans will not process local agency’s invoices until a complete Exhibit 10-K form is accepted and approved by Caltrans Audits and Investigations.***

**Distribution:** 1) Original - Local Agency Project File  
2) Copy - Consultant  
3) Copy - Caltrans Audits and Investigations

**EXHIBIT 10-A A&E CONSULTANT FINANCIAL DOCUMENT REVIEW REQUEST**

**Caltrans Division of Local Assistance  
(Completed by Local Agencies, One per Contract)**

**(For New Proposed A&E Consultant Local Agency Contracts of \$150,000 or Greater)  
(For Amendments, use only when there are additional subconsultants or changes in ICR)**

**EMAIL TO:**

California State Department of Transportation  
Independent Office of Audits and Investigations  
[conformance.review@dot.ca.gov](mailto:conformance.review@dot.ca.gov)  
Attention: Audit Manager, External Contracts-Local Agencies

Date: \_\_\_\_\_  
Federal Project Number: \_\_\_\_\_

The following applicable documents are attached for proposed A&E Consultant Contract No. \_\_\_\_\_ at a proposed Contract or Amended amount of \$ \_\_\_\_\_, with \_\_\_\_\_  
(Prime Consultant's full legal name)

The Project Description is **(Identify if an Amendment or a New Contract)**: \_\_\_\_\_

Participation Amounts for Prime and all Sub-consultants on this contract are:

Consultant's Name	Participation Amount	Category 1, 2, 3, 4, 5 or N/A (see below)	Caltrans ICR Acceptance ID # (if available)

Note: Add pages if necessary. N/A applies to Consultants with participation amount less than \$150,000

**I verify that we have received from the prime & sub-consultants on this contract and are forwarding to A&I, the financial documents that meet A&I's minimum requirements for contracts ≥ \$150,000\* (as listed below) as well as the financial documents required under each Consultant's Category Requirements as specified in the Exhibit 10-A Checklist:**

Minimum Requirements

- 1) A&E Consultant Financial Document Review Request Letter (Exhibit 10-A) - Completed for each contract, by Local Agency
- 2) Cost Proposals (Examples at Exhibit 10-H1 through 10-H4) – Completed by Consultants
- 3) Consultant Annual Certification of Indirect Costs and Financial Management System (Exhibit 10-K) - Completed by each Consultant (Except for firms requesting the Safe Harbor Rate)
- 4) Points of contact for Local Agency and Prime Consultant

Name \_\_\_\_\_ Signature \_\_\_\_\_

Title \_\_\_\_\_

Name of Local Agency and Department \_\_\_\_\_  
Address \_\_\_\_\_

**\*Consultants with multi-year Contracts that begin at \$150,000 or more, with Indirect Cost Rates (ICR) that change every year are required to follow the same minimum and category requirements for each fiscal year ICR proposed.**

**CALTRANS A&I FINANCIAL DOCUMENT REVIEW REQUIREMENTS  
FOR ARCHITECTURAL AND ENGINEERING (A&E) CONSULTANTS  
ON LOCAL GOVERNMENT AGENCY CONTRACTS**

**All Prime & Sub-consultants must submit the following minimum requirements for contracts ≥ \$150,000:**

- 1) A&E Consultant Financial Document Review Request Letter (Exhibit 10-A) - Completed by Local Agency for each contract (1)
- 2) Cost Proposals (Examples at Exhibit 10-H1 through 10-H4) - Completed by Consultants
- 3) Consultant Annual Certification of Indirect Costs and Financial Management System (Exhibit 10-K) - Completed by each Consultant (except for firms requesting Safe Harbor Rate)
- 4) Local Agency and Prime Consultant's Points of Contact

Type of Financial Documents and Information for ICR FYE proposed *	CATEGORY 1: Firms with Cognizant Approval Letter for ICR FYE proposed	CATEGORY 2: Firms with Caltrans Acceptance ID Number for ICR FYE proposed **	CATEGORY 3: Firms Requesting Safe Harbor Rate (SHR)	If not Categories 1-3	
				CATEGORY 4: Contracts ≥ \$150K to < \$1M and participating amounts ≥ to \$150K	CATEGORY 5: Contracts ≥ \$1M and participating amounts ≥ \$150K
	<b>For all Prime and Sub-consultants</b>				
Cognizant Approval Letter for the FYE proposed (issued by cognizant state, which is based on Location of Accounting Records as stated in AASHTO ICQ)	✓				
Caltrans' ICR Acceptance ID #s for ICR FYE proposed **		✓			
FAR Compliant Indirect Cost Rate (ICR) Schedule including FAR References and Disclosure Notes (2) ★ <i>Prime Consultant must have a CPA Audited ICR Report if contract is ≥ \$1M, regardless of Prime Consultant's participation amount.(2)</i>				✓	★
Prior Year ICR Schedule					✓
AASHTO Internal Control Questionnaire (ICQ) Appendix B (3)				✓	✓
Post Closing Trial Balance (4)					✓
Vacation/Sick Policy					✓
Bonus Policy					✓
Executive Compensation Analysis (ECA) (4)					✓
Prevailing Wage (PW) Policy for PW contracts (5)	✓	✓	✓***	✓	✓
<b>When applicable, additional documents may be requested:</b>					
Supplemental reconciliation schedule (to tie the proposed ICR Schedule to Trial Balance) (4)					
Chart of Accounts					
Income Statement (4)					
Labor Summary Report (6)					
Related Party Rent Analysis (4)					
Vehicle, Equipment, and Other Direct Costs Schedules (4)					
<b>Safe Harbor Rate Documents:</b>					
Consultant Certification of Eligibility of Contract Costs and Financial Management System (Attachment 1R)			✓		
<b>Additional Documents Required</b>	2	2	2	3	8

\* ICR FYE = Indirect Cost Rate Fiscal Year End. All items on this checklist may not be all inclusive. A&I reserves the right to request additional documentats as deemed necessary.

\*\* Caltrans ICR Acceptance ID # is an identification number issued by Caltrans upon review and acceptance of consultant's indirect cost rate(s) schedule for a specific fiscal year. This ID # can be referenced for use on future contracts using the same FYE ICR.

\*\*\* Firms using SHR can be reimbursed for the prevailing wage deltas either as an Other Direct Cost or as an Overhead/Indirect Cost - refer to A&I's PW Interpretive Guidance on [www.dot.ca.gov/audits](http://www.dot.ca.gov/audits).

- (1) Local Agencies are required to complete Exhibit 10-A and include all applicable required documents upon submission.
- (2) FAR Compliant ICR schedule includes FAR References, and Disclosure Notes. If the Disclosure Notes are not provided, A&I will provide a first year waiver of this requirement; however, the notes will be required on future fiscal year ICR schedules. See AASHTO Guide Chapter 5, 8, and 11 for references. The fiscal year-end indirect cost rate (ICR) to be applied to the Agreement is based on the submission package received by A&I. For financial document packages received from January 1, 2018 to June 30, 2018, the 2016 FYE ICR must be submitted or the FYE 2017 ICR if available. For financial document packages received from July 1, 2018 to December 31, 2018, the 2017 ICR must be submitted.
- (3) Go to AASHTO website @ [audit.transportation.org](http://audit.transportation.org), for Appendix B-Internal Control Questionnaire
- (4) Accounts and balances must match costs proposed on the FAR Compliant ICR schedule, as per 48 CFR Part 31.
- (5) Prevailing Wage (PW) contract requires written PW Policy. It must be on the company's letterhead, signed, and dated by company's official to show accounting methods used on delta base and delta fringe - refer to A&I's PW Interpretive Guidance on [www.dot.ca.gov/audits](http://www.dot.ca.gov/audits).
- (6) Document/Report must summarize total labor costs that agree to total direct labor and total indirect labor amounts included in the fiscal year ICR schedule proposed on the contract. Uncompensated overtime must be presented for salaried/exempt employees that are not compensated for hours worked in excess of 8 hours a day/40 hours per week/2080 hours per year. Refer to Uncompensated Overtime Interpretive Guidance on [www.dot.ca.gov/audits](http://www.dot.ca.gov/audits).

## EXHIBIT 10-O1 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>	<b>%</b>
17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____  Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			
20. Local Agency Representative's _____	21. Date _____	12. Preparer's Signature _____	13. Date _____
22. Local Agency Representative's _____	23. Phone _____	14. Preparer's _____	15. Phone _____
24. Local Agency Representative's Title _____		16. Preparer's Title _____	

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

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

## INSTRUCTIONS – CONSULTANT PROPOSAL DBE 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 Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
4. **Project Location** - Enter the project location as it appears on the project advertisement.
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. **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.
21. **Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
22. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
23. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
24. **Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

## EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: \_\_\_\_\_ 2. Contract DBE Goal: \_\_\_\_\_
3. Project Description: \_\_\_\_\_
4. Project Location: \_\_\_\_\_
5. Consultant's Name: \_\_\_\_\_ 6. Prime Certified DBE:  7. Total Contract Award Amount: \_\_\_\_\_
8. Total Dollar Amount for **ALL** Subconsultants: \_\_\_\_\_ 9. Total Number of **ALL** Subconsultants: \_\_\_\_\_

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>		<b>14. TOTAL CLAIMED DBE PARTICIPATION</b>	\$
20. Local Agency Contract Number: _____ 21. Federal-Aid Project Number: _____ 22. Contract Execution Date: _____			%
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.  _____ 23. Local Agency Representative's      24. Date  _____ 25. Local Agency Representative's      26. Phone  _____ 27. Local Agency Representative's Title		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.  _____ 15. Preparer's Signature      16. Date  _____ 17. Preparer's      18. Phone  _____ 19. Preparer's Title	

**DISTRIBUTION:** 1. Original – Local Agency  
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

**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 CONTRACT 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 Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
- 8. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 9. Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 10. 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.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 12. 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.
- 13. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 14. Total Claimed DBE Participation** - \$: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. %: Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). 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).
- 15. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 16. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 17. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 18. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 19. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

### LOCAL AGENCY SECTION

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. 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.
- 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.



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

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

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

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

SF-LLL-Instructions Rev. 06-04

**EXHIBIT 10-U CONSULTANT IN MANAGEMENT SUPPORT ROLE CONFLICT  
OF INTEREST AND CONFIDENTIALITY STATEMENT<sup>1</sup>**

RFP/RFQ PROCUREMENT NUMBERS (if applicable): \_\_\_\_\_

PROJECT NAME (and FPN, if applicable)<sup>2</sup>: \_\_\_\_\_

APPLICABILITY: To be filled out by local agency consultants in management support role.

I am an employee of a consultant under contract to the local agency that is responsible for the procuring and administering of one or more consultant contracts containing either Federal or State funds.

I am in a management position with the local agency, my title is listed below and I have attached my duty statement and scope of work.

I hereby certify as follows:

1. I recuse myself from all potential conflicts of interest.
2. I will not directly or indirectly participate in, manage, or oversee any consultant selection procurement process in which the consulting firm of which I am employed is competing as a consultant or subconsultant.
3. I will not directly or indirectly influence any employee, staff member, or other individual participating in any consultant selection procurement process in which the consulting firm of which I am employed is as a consultant or subconsultant.
4. I will not directly or indirectly participate in, manage, or oversee any local agency contract that is with the consulting firm of which I am employed, regardless of whether the involvement of my employer in the contract is as a consultant or subconsultant. Among other things, this includes my not being involved in approving changes in the schedule, scope, deliverables or invoices.
5. I understand that if I am involved in any local agency contract that is with the consulting firm of which I am employed, in violation of 1. or 2. above, that local agency contract will no longer be eligible for Federal or State reimbursement because of my involvement.

I certify that I have read and understand my responsibilities per **23 CFR 172.7(b)(5)**

I fully understand that it is unlawful for a person to utilize any organization name (i.e. local agency) or auxiliary organization information, which is not a matter of public record, for personal gain.

<sup>1</sup> Each consultant staff working in a management support role shall complete a separate form.

<sup>2</sup> For on-call contracts or contracts for multiple projects, indicate accordingly.

I have read and fully understand all of the above.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Consultant Firm/Sole Proprietor: \_\_\_\_\_

**REVIEWED BY PUBLIC WORKS DIRECTOR OR AUTHORIZED LOCAL AGENCY REPRESENTATIVE**

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and will ensure:

- That the foregoing named local agency consultant who is under contract and in a management support role with our local agency, abides by the foregoing terms and conditions;
- That should the foregoing named local agency consultant, who is under contract and in a management support role with our local agency, violate any of the foregoing terms and conditions, the Caltrans DLAE will be notified and such violation will be considered a breach of ethics and could be a basis for ineligibility of State or Federal project funds.
- The procedures followed to procure and execute the contract, between the local agency and the consulting firm of which I am employed, comply with all federal and state requirements. Also this contract has a specific date from \_\_\_\_\_ to \_\_\_\_\_.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Department/Local Agency: \_\_\_\_\_

**REVIEWED/CONCURRENCE BY FEDERAL HIGHWAYS**

I have reviewed the foregoing “Conflict of Interest and Confidentiality Statement” and supervisor’s statement.

- I concur that the consultant, who is under contract and in a management support role with the local agency, does not appear to present a conflict of interest. The local agency and the consultant should be considered eligible for federal reimbursement.
  
- I do not concur as I believe that the consultant, who is under contract and in a management support role with the local agency, does appear to present a conflict of interest.

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

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

**Distribution:** 1) Copy to: DLAE for each Federal/State funded project  
2) Copy to be returned to Local Agency by DLAE with FHWA approval