

CITY OF ELK GROVE



Request for Proposals

For

On-Call Right of Way Acquisition, Relocation and Appraisal Services

**City Clerk's Office
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758**

Proposals Due by 3:00 PM on Thursday, March 6, 2025

1. INTRODUCTION

The City of Elk Grove (City) is accepting proposals from qualified Consultants for assistance in a number of disciplines related to the acquisition, relocation and appraisal of real property interests for a variety of public improvement projects located throughout the City. Caltrans has qualified the City as a Level 2 Agency for acquisitions and relocations. Due to the number of Capital Improvement Projects the City anticipates contracting with Consultant(s) for the following services:

- Appraisal
- Appraisal Review
- Acquisition
- Relocation
- Escrow and Title Coordination
- Project Management
- Project Tracking and Clerical Services

The City will award contracts to the selected Consultants in accordance with the included terms and conditions shown in this Request for Proposals (RFP). Prospective respondents are advised to read this information over carefully prior to submitting a proposal.

2. BACKGROUND & PURPOSE

The City's primary objective is to obtain Professional Services for Right-of-Way Acquisition, Relocation and Appraisal Services from one or more qualified firms. A Consultant Contract (Exhibit B) will be provided to the City Council for consideration. Upon City Council approval, a Consultant Contract will be executed between the City and the selected Consultant(s). The Consultant Contract will allow the City to request the services of retained Consultant(s) on an individual project basis, as the need arises. Staff may solicit an informal proposal based on scope, understanding, and schedule of a project.

3. PROPOSAL SUBMITTAL INSTRUCTIONS

3.1 Guidelines for Proposal

The following guidelines are provided for standardizing the preparation and submission of proposals. The intent is to assist respondents in the preparation of their submissions and to assist the City by simplifying the review process providing standards for comparison of submissions.

Statements submitted in response to this RFP shall include a complete response to the requirements in this section in the order presented. Statements shall be a straightforward delineation of the respondent's capability to satisfy the intent and requirements of this RFP and shall not contain redundancies and conflicting statements.

Proposals shall be printed double sided, submitted on 8-1/2" x 11" recycled paper, with easy to read font size and style. Pages shall be numbered, tabbed, and bound (spiral / comb / three ring binder). Tabbed dividers shall separate and identify the response items described below.

One signed original, two (2) copies, and one USB Flash Drive copy of the proposal shall be submitted to the Office of the City Clerk by 3:00 PM on Thursday, March 6, 2025. Proposal shall be submitted in a sealed envelope clearly marked RFP for On-Call Right-of-Way Acquisition, Relocation and Appraisal Services and addressed to:

**OFFICE OF THE CITY CLERK
CITY OF ELK GROVE
8401 Laguna Palms Way
Elk Grove, CA 95758**

Electronic Submittal:

As an alternative to written RFP's, proposals may be submitted electronically in pdf format, and emailed to Office of the City Clerk at cityclerk@elkgrovecity.org prior to the deadline stated above. Submittals in pdf format must be fully ADA compliant. Large files may be sent using a cloud-based system.

system. Consultants shall be responsible for ensuring that proposals submitted electronically are received by the City Clerk prior to the deadline. Proposals that are not received prior to the deadline shall not be considered by the City, even if the late submission is due to a technical or other error, including, without limitation, the City's inability to open or access the electronic file. If the proposing Consultant does not receive confirmation from the City Clerk that the proposal has been received, Consultant should assume the transmission failed and either resubmit or arranged for another method of delivery. Consultants are also encouraged to contact the City Clerk to confirm receipt of their proposal prior to the deadline.

Questions regarding this RFP are to be directed by e-mail to: Ann Grava, Real Estate Program Manager at AGrava@elkgrovecity.org. Such contact shall be for clarification purposes only. The City must receive all questions no later than 3:00 PM Thursday, February 20, 2025. Material changes, if any, to the scope of services or proposal procedures shall only be transmitted by written addendum and posted to the City website. Addendums and answers to submitted questions will be available via the City of Elk Grove website under "Notice" for the RFP announcement no later than Thursday, February 27, 2025.

Proposals shall not be accepted by fax.

Complete proposals shall contain the following information in the order listed:

a. Introductory Letter

The introductory letter shall be addressed to:

Ann Grava
Real Estate Program Manager
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758

The letter shall include the Consultant's name submitting the proposal, their mailing address, telephone number, and contact name. The letter shall address the Consultant's understanding of this RFP and any other information the Consultant has gathered. Include a statement discussing the Consultant's interest and qualifications for this type of work. A principal of the firm authorized to legally bind the firm shall sign the letter.

b. Table of Contents

The Consultant shall insert a comprehensive table of contents denoting sections c through j of the proposal as indicated below.

c. Organization Chart

d. Qualifications and Experience

Describe the Consultant's capability for undertaking and performing the work, including any professional licenses and certificates held by the Consultant. Resumes for Key Personnel shall be included. List types and locations of similar work performed by the Key Personnel in the last five (5) years that best characterizes the quality and past performance. Include names and current phone numbers for contact on work quality and performance. References may be contacted as part of the selection Process.

e. Detailed Scope of Services

The scope of services must state the Consultant's ability to meet each specification as outlined in this document. The scope of services shall address the items of work as described in this RFP. The scope of services shall be simple, easy to read and follow, and address and satisfy the objectives and specifications as listed in the Scope of Services in this RFP.

f. Conflict of Interest

Any activities or relationships of the Consultant that might create a conflict of interest for the Consultant or the City, and, if such activities or relationships exist, a description of the facts,

legal implications, and possible effects sufficient to permit the City to appreciate the significance of the conflict and to grant any conflict waiver, if appropriate and necessary.

g. Consultant Contract

Attached to the RFP (Exhibit B) is a copy of the City's standard Consultant Contract (Contract). The City's standard Contract may be modified, in the City's sole discretion, to address the specific provisions of this RFP and Consultants shall note that any specifications or other requirements specific to this RFP shall be included in the Contract and Contract's exhibits following an award of the Contract. Please review the Contract carefully and note in your proposal any exceptions or alterations to the Contract. Alterations or changes to the Contract that are not in the Consultant's response shall not be allowed after the selection of the Consultant. This includes alterations, exceptions, or changes to the insurance and indemnity provisions. By requiring these requests up front, the City can compare all respondents on an equal basis. However, the City reserves the right, in its sole discretion, to accept or reject any and all proposed changes to the City's standard Contract. For reference, the insurance amounts that appear in the attached Contract are summarized below.

h. Secretary of State

The Consultant shall confirm their understanding of the requirement to be registered with the California Secretary of State as noted in the RFP language in Section 5.1 of the RFP.

i. Cost Proposal

This section shall include the cost for requested services outlined in Exhibit A: Scope of Work. Consultants shall clearly describe and outline rates for the services to be provided for each task. Cost estimate shall be submitted in a cost plus fixed fee format. Cost proposal shall conform to Exhibit F – Sample Cost Proposal and should include the following detail for the prime firm and all subconsultants listed in their proposal:

- Billable rates of each member of the Project team.
- Breakdown of direct costs, profit, indirect rate, and estimated reimbursable expenses.

Mark ups on sub consultants are not allowed. Upon completion of each task, the Consultant shall notify the City and request payment for the products and services by submitting an invoice and a brief description of work performed during the billing period. Upon receipt of the invoice, the City will review in a timely manner the products and services noted, verify satisfactory completion, and authorize payment. No cost increases shall be passed onto the City after the proposal has been submitted. No attempt shall be made to tie any item or items contained in this RFP with any other business with the City.

j. Federal Provisions

The proposing Consultant's services may be federally funded, which necessitates compliance with addition requirements. Special attention is directed to Local Assistance Procedures Manual (LAPM) Exhibit 10-1, Notice to Proposers DBE Information (Exhibit C). Consultant shall include in their proposal an acknowledgement and understanding of these provisions. All forms and certificates are to be completed, signed, and inserted in this section in Consultants' response to this RFP.

- Local Agency Proposer DBE Commitment (Consultant Contracts); (LAPM 10-01) (Exhibit C).
- DBE Information - Good Faith Effort (LAPM 15-H) (Exhibit D) – Required only if DBE goal is not achieved. It is recommended that proposer prepare and submit a GFE irrespective of meeting the DBE goal.
- Disclosure of Lobbying Activities (LAPM 10-Q) (Exhibit E).

The DBE goal is 20%. Consultants submitting a proposal must meet the DBE goal or submit documentation of a Good Faith Effort.

Upon award and through completion of the project, the successful proposing Consultant shall 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, some of which may be included such as the Consultant Annual Certification of Indirect Costs,
- Consultant shall demonstrate familiarity of providing services for federally funded projects and

has a clear understanding of requirements/needs to facilitate the project through Caltrans Local Assistance and Local Assistance Procedures Manual.

3.2 Late Proposals

Proposals arriving after the specified date and time shall not be considered, nor shall late proposals be opened. Each Consultant assumes responsibility for timely submission of its proposal.

3.3 Withdrawal or Modifications of Proposals

Any proposal may be withdrawn or modified by a written request signed by the Consultant and received by the City Clerk prior to the final time and date for the receipt of proposals. Once the deadline is past, Consultants are obligated to fulfill the terms of their proposal.

3.4 Proposal Acceptance and Rejection

The City reserves the right to accept any proposal, to reject any and all proposals, and to call for new proposals, or dispense with the proposal process in accordance with the Elk Grove Municipal Code.

3.5 Proposal Evaluation and Award

Evaluation will be made based on the criteria noted in the table below. A contract may be awarded to the responsible Consultant(s) who best meets the City’s needs by demonstrating the competence and professional qualifications necessary for the satisfactory performance of the required services, and shall not necessarily be based on the lowest priced proposal, except as otherwise provided by law, taking into consideration adherence to the included specifications. All Consultants that were not selected by the City shall be notified in writing. Nothing herein shall obligate the City to award a contract to any responding Consultant. Any contract awarded will be non-exclusive, and the City reserves the right to seek services from other sources, in the City’s sole discretion.

Evaluation Criteria	Rating Score (0-5)	Weight
Completeness of Response		Pass/Fail
Understanding of the work to be done and knowledge of the Federal and State Uniform Relocation and Real Property Acquisition Policies Act		20%
Ability to meet deadlines and provide professional services in a timely manner		15%
Consultant Experience with Similar Kinds of Work		20%
Quality and experience of staff providing services and their status of Professional Certifications to meet the minimum requirements to provide service		20%
Cost Proposal		20%
References		5%
TOTAL		100%

Staff will evaluate the merits of the proposals received in accordance with the evaluation factors stated

in this RFP and formulate a recommendation. For each evaluation criteria, proposals will be evaluated on their relative strengths, deficiencies, and weaknesses.

4. SELECTION PROCESS SCHEDULE

TASK	APPROXIMATE DATE
Issuance of Request for Proposals	February 3, 2025
Deadline for Questions	February 20, 2025
Proposals Due	March 6, 2025 by 3:00 PM
Final Selection Interviews (Tentative)	Week of March 17, 2025
Contract Approval and Award (Tentative)	May 28, 2025

5. GENERAL TERMS AND CONDITIONS

5.1 Registration with the California Secretary of State

Unless Consultant is a sole proprietorship, Consultant must be registered and in good standing with the California Secretary of State within 14 days following notification of the City’s intent to award a contract to Consultant and prior to execution of a final contract. Failure to timely register with the Secretary of State may result in the City awarding the contract to another Consultant. Additional information regarding the registration process may be found on the Secretary of State’s website at: <https://bizfileonline.sos.ca.gov/>.

5.2 Disclosure of Submitted Materials

After selection and execution of the contract(s), (or prior thereto if required by law) all information and materials provided in each submittal received is subject to disclosure through a public records request pursuant to the California Public Records Act, or otherwise as may be required by law. The City, in its sole discretion, may release any submitted materials, regardless of whether such materials are marked by respondents as confidential or otherwise as protected.

5.3 Waiver of Irregularities

The City retains the right, in its sole discretion, to waive any irregularities in proposals that do not comply with the strict requirements of this RFP, and the City reserves the right to award a contract to a Consultant submitting any such non-compliant proposal, all in the City’s sole discretion.

5.4 Security Access Policy

The work to be completed under this RFP may require access to City facilities and therefore is subject to the City’s Security Access Policy, which is attached to the City’s standard contract (see Exhibit B). The prospective Consultant, including its employees, subcontractors, agents and anyone working on their behalf that will access City facilities, must submit to a background check which shall include Live Scan electronic fingerprinting. This background check must be completed before the Consultant will receive a Notice to Proceed. The Elk Grove Police Department shall review the background check and may deny access to any individual in its discretion as it deems necessary for the security of City facilities and personnel. A contract shall not be awarded to any Consultant that is unable to complete the scope of work as a result of denied access under the City’s Security Access Policy.

5.5 Validity of Pricing

Consultants are required to provide a fee structure including the hourly rate of the principals to be assigned to the matter, and proposed cost (line item descriptions and pricing), and expense reimbursements levels, and total costs. No cost increases shall be passed onto the City after the proposal has been submitted. No attempt shall be made to tie any item or items contained in this RFP

with any other business with the City; each proposal must stand on its own.

5.6 No guarantee of Usage

Any quantities listed in this RFP are estimated or projected and are provided for tabulation and information purposes only. No guarantee of quantities is given or implied by the City. Consultant must furnish the City's needs as they arise.

5.7 Demonstrations

When required, the City may request full demonstrations prior to award. When such demonstrations are requested, the Consultant shall respond promptly and arrange a demonstration at a convenient location. Failure to provide a demonstration as specified by the City may result in rejection of a proposal.

5.8 Use of Other Governmental Contracts

The City reserves the right to reject any part or all of any proposals received and utilize other available governmental contracts.

5.9 Qualification/Inspection

Proposals will only be considered from Consultants normally engaged in providing the types of services specified herein. By responding to this RFP, the Consultant consents to the City's right to inspect the Consultant's facilities, personnel, and organization at any time, or to take any other action necessary to determine Consultant's ability to perform. The City reserves the right to reject proposals where evidence or evaluation is determined to indicate inability to perform. The City reserves the right to interview any or all responding Consultants and/or to award a contract without conducting interviews.

5.10 Other Governmental Entities

If the Consultant is awarded a contract as a result of this RFP, the Consultant shall, if the Consultant has sufficient capacity, provide to other governmental agencies, so requesting, the services awarded in accordance with the terms and conditions of the RFP.

5.11 Federal Requirements

Should any portion of these services require the use of Federal funds, all Federal requirements shall apply and all Consultants must consent to each certification and assurance, which will be incorporated into the contract.

5.12 Piggybacking

"Piggybacking" is a form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered into by another entity.

Bidders are requested to indicate on the Bid if they will extend the pricing, terms and conditions of an awarded contract, based on this bid, to other government agencies. If the successful vendor agrees to this provision, participating agencies may enter into a contract with the successful vendor for the purchase of the service and commodities described herein based on the terms, conditions, prices, and percentages offered by the successful vendor to the City. Minor changes in terms and conditions may be negotiated by participating agencies prior to contract finalization. Any such contract shall be entirely independent and separate from the City and City shall have no obligation relating to any third party contract.

5.13 Payment Terms

Payment shall be made as set forth in the Contract attached hereto as Exhibit B. In submitting proposals under these specifications, Consultants shall take into account all discounts, both trade and time, allowed in accordance with the payment terms.

5.14 Performance

It is the intention of the City to acquire services as specified herein from a Consultant that will give prompt and convenient service.

5.15 Term of Contract

The term of the Contract will be for a specific period of time, commencing upon execution. The City anticipates the Contract to be for a term of three years with one one-year extension, at the option of

the City. The City reserves the right to set the term for a period deemed to be in the best interest of the City, and terminate the contract as set forth therein.

5.16 Amendments

If, in the course of the performance of the contract, Consultant or the City proposes changes to the services provided, and informal consultation with the other party indicates that a change in the terms and conditions of the contract may be warranted, Consultant or the City may request a change in the contract. The parties to the contract will meet to discuss and negotiate the required documents. Upon completion of those negotiations, the negotiated documents will be submitted to the City for approval. Upon approval by the City, an amendment to the contract will be approved by all parties for the change to be implemented. An amendment shall not render ineffective or invalidate any unaffected portions of the Contract. Nothing in this section obligates the City to agree to any change order or other amendment, and the City may withhold such agreement in its sole discretion.

5.17 Service & Support

Consultants shall explain how all on-going service and support shall be handled by the Consultant and the City of Elk Grove.

5.18 Records

The Consultant shall maintain complete and accurate records with respect to labor costs, material expenses, and other such information required by City that relates to the performance of services under the Contract. The Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of the services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible and in a form acceptable to the City, which the City may specify and change from time to time. The Consultant shall provide free access to the representatives of City or its designees, at reasonable times, to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts there from as necessary, and shall allow inspection of all work, data, documents, proceedings, and activities related to the Contract. Such records, together with supporting documents, shall be maintained for City's inspection for a period of at least three (3) years after receipt of final payment.

EXHIBIT A: SCOPE OF WORK

The scope of work outlined below represents the minimum services required by the City. This list is not exhaustive, and additional tasks may be requested. Consultants are expected to include any additional services they deem necessary based on their understanding of this Request for Proposal. To be eligible for contract award, consultants must provide all services specified in the Scope of Work.

The Consultant shall ensure the tasks outlined herein are performed by the Consultant's own responsible representative or designated subconsultant. Any subconsultant not listed and utilized at a later date must be approved by the City. The requirements described in this Section are neither limited nor comprehensive in nature but are the minimum necessary to meet the City's objectives. Detailed work procedures are not included in the Scope of Work. The Consultant shall exercise independent, professional judgment and innovation in the performance of any services or tasks listed herein to achieve the most effective and efficient product. The specific methodology by which the work will be accomplished shall be presented in the proposal. The Consultant is expected to expand on this scope in their proposal by incorporating specific areas of expertise and any other tasks required for a specific project and/or proposal requested.

All Consultant staff shall perform responsibilities established under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601) (Uniform Act) consistent with 49 CFR 1.85, the Caltrans Right-of-Way Manual, Chapter 13 "Right of Way" of Caltrans latest Local Assistance Procedures Manual (LAPM), and all other applicable laws and regulations.

1. Real Property Appraiser Services

Responsible for the preparation of appraisal reports to determine the fair market value of the rights to be acquired from each subject property, prepared in accordance with professional standards, Uniform Standards of Professional Appraisal Practices (USPAP), the Caltrans Right-of-Way Manual and all applicable laws and regulations. Appraisal Consultant shall be able to provide a fair market value whether those rights are temporary, permanent, in fee, or easement, or compensable damages accrue to property as a result of a project. The appraiser shall measure the fair market value of the rights to be acquired to include, assessing severance damages to property acquisitions/remainers. Appraisers shall be knowledgeable and have experience with appraising full and partial takes, easements, and fee simple acquisitions from commercial, residential and agricultural properties. The Consultants for Real Property Appraiser Services must meet the following minimum qualifications, according to the Caltrans Right-of-Way Manual, and must possess:

- (a) Residential License for any noncomplex 1-4 family property with value of \$1 million and nonresidential property with a transaction value up to \$250,000.
- (b) Certified Residential license for any 1-4 family property without regard to transaction value or complexity; and nonresidential property with a transaction value up to \$250,000.
- (c) Appropriate appraisal license as issued by the California Office of Real Estate Appraisers in accordance to the degree, complexity, and certified General for all real estate without regard to transaction value or complexity.
- (d) Minimum two (2) years' experience in appraisal of rights for eminent domain purposes.
- (e) Successful completion of a course in appraisal of partial acquisitions for public agencies.
- (f) Successful completion of a course in the Uniform Relocation and Real Property Acquisition Policies Act taught by a recognized organization.
- (g) Successful completion of a course in State Eminent Domain Law taught by a recognized organization.
- (h) Specific knowledge and experience appropriate for the type of assignment.

2. Review Appraiser Services

Responsible for the preparation of independent and objective written reviews of the real property appraiser consultant's reports. Reviews shall be completed in the form of a Review Appraiser Certificate (Exhibit 7-EX-24D of the Caltrans Right-of-Way Manual) for each subject property appraisal to ensure appraisal quality and procedure. All reviews shall adhere to professional standards: USPAP, Caltrans Right-of-Way Manual, and all applicable laws and regulations. The review appraiser shall recommend approval of the reported values to City to govern negotiation and settlement. The review appraiser shall not be the same individual as the initial appraisal consultant. The review appraiser services shall meet the following minimum qualifications,

according to the Caltrans Right-of-Way Manual, and must possess:

- (a) Certified General License for all real estate without regard to transaction value or complexity.
- (b) Minimum two (2) years' experience in reviewing appraisals for eminent domain purposes.
- (c) Successful completion of courses in the Uniform Relocation and Real Property Acquisition Act and State Eminent Domain Law taught by a recognized organization.
- (d) Specific knowledge and experience appropriate for the type of assignment.

3. Acquisition and Negotiation Services

Responsible for "good faith negotiations" with property owners for the purchase of various property rights including temporary, permanent, in fee, or easement, or compensable damage payments, based on values established in approved appraisals; preparation of written correspondence, including offer packages, coordination with City staff, and performance of notary services related to the signing of acquisition documents. Consultant shall adhere to all professional standards and the Caltrans Right-of-Way Manual and all applicable laws and regulations. The Acquisition and Negotiation Services Specialist shall meet the following minimum requirements: Real Estate Broker's or Salesperson's License (when under direct supervision of a Real Estate Broker) as issued by the California Department of Real Estate. All Right of Way Contracts must be approved for content and signed or initialized by the Real Estate Broker.

- (a) Minimum two (2) years' experience in the acquisition of rights for eminent domain purposes.
- (b) Successful completion of course in the Uniform Relocation and Real Property Acquisition Policies Act and State Eminent Domain law taught by recognized organizations. By signing the Right of Way Contract, the Broker or Principal of the Company acknowledges responsibility for maintaining a complete file on each parcel.
- (c) Experience with working with Public Agencies.

4. Relocation Services

Responsible for providing relocation assistance to displaced parties, if any, resulting from an acquisition of necessary property rights, and conducted per applicable professional standards and the Caltrans Right-of-Way Manual and all applicable laws and regulations. Occupancy may be owner occupied or tenant, residential or nonresidential, including agricultural uses. Relocation specialists may be used to prepare relocation impact documents (part of an environmental clearance document) in planning stage. Consultants must meet the following minimum qualifications:

- (a) Assigned personnel must have at least two (2) years of expertise to meet the project's specific needs. For instance, business relocations will be managed by individuals with relevant prior specific experience.
- (b) Successful completion of courses in the Uniform Relocation and Real Property Acquisition Policies Act and State Eminent Domain Law taught by recognized organizations.
- (c) Specific knowledge and experience appropriate for the type of assignment.

5. Escrow and Title Coordination Services

Escrow Services to be performed shall consist of those escrow services normally provided in a real property purchase and sale transaction including, but not limited to:

- (a) Obtain partial and full reconveyances of deeds of trust.
- (b) Prorate property taxes and pay any taxes due to the City at close of escrow.
- (c) Obtain Real Estate Division's and grantor's approval of Closing Statements, transfer tax affidavits, and preliminary change or ownership reports for the transaction.
- (d) Assist the Real Estate Division to resolve issues affecting marketability of title through, among other things, recordation of corrective instruments and the filing of actions under California Code of Civil Procedure Sections 751.01 et seq., the Destroyed Lands Records Act.
- (e) Record grant deeds, certificates of acceptance, memoranda of agreements, and related and similar documents for the transfer or real property and/or real property interest to/from the Real Estate Division or City.
- (f) Distribute executed and/or recorded closing documents to the parties.
- (g) Receive and disburse funds payable to the parties at the closing of each parcel acquired by Real Estate Division.
- (h) Other escrow actions as required to close.

- (i) Title Coordination Services shall include obtaining preliminary and other types of title reports for parcel the City intends to acquire, copies of underlying exception documents, and other related information and documents of record concerning title to any parcel required, including but not limited to, copies of applicable vesting deeds, chain of title reports, confirmation of the status of tax payments on the property, and a list and copy of all liens, claims, encumbrances, easements, rights-of-way, reservations, restrictions, covenants, and other conditions affecting title.

6. Project Management Services

Project Management Services to be performed shall include, but are not limited to, the following tasks:

- (a) Coordination and attendance of meetings with stakeholders for real estate transactions for the project.
- (b) Provide general consultations, including right of way matters pertaining to the project.
- (c) Maintain project records consistent with federal and state agency audit standards.
- (d) Preparation of resolution of necessity documentation, if required.

7. Project Tracking and Clerical Services

Project tracking and clerical services shall provide the necessary tracking and clerical work for projects. This shall include creating and updating right of way acquisition work documents such as title and escrow reports, recorded map, correspondence to and from owner, relocation plans, and any other such documentation that may be required to complete the real estate transaction.

Exact tasks, deliverables, and schedules will be identified in a task order. The Consultant shall provide a complete budget for services identified in the task order based on the Consultant's submitted hourly rate sheet included as part of the Agreement.

EXHIBIT B: CONSULTANT CONTRACT
EXHIBIT C: LOCAL AGENCY PROPOSER DBE COMMITMENT
EXHIBIT D: DBE INFORMATION - GOOD FAITH EFFORT
EXHIBIT E: DISCLOSURE OF LOBBYING ACTIVITIES
EXHIBIT F: SAMPLE COST PROPOSAL

EXHIBIT B: CONSULTANT CONTRACT

CITY OF ELK GROVE



MASTER SERVICES CONTRACT FOR

CONSULTANT NAME

Federal/State Funded On-Call Real Estate Services

MASTER SERVICES CONTRACT

THIS CONTRACT (“Contract”) is made on _____, 2025, by and between the City of Elk Grove, a municipal corporation (the “City”) and **Consultant Name**, a **Type of Entity** (the “Consultant”), collectively referred to as the “Parties.”

WITNESSETH

WHEREAS, the Consultant has presented a proposal to provide services, which services are identified in the Scope of Work attached hereto and incorporated herein as **Exhibit A**, and by reason of its qualifications, experience, and facilities, is duly authorized to perform the type of services contemplated herein; and,

WHEREAS, the City desires to hire Consultant to perform the Scope of Work pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, City and Consultant agree to as follows:

1. SCOPE OF SERVICES

A. Consultant shall do all work described herein, and as further set forth in individual task orders issued by the City to Consultant. The terms and conditions of this Contract shall control all Task Orders (“Task Orders”).

B. The Consultant agrees it has satisfied itself by its own investigation and research, regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

C. There shall be no change in Consultant’s Project Manager or members of the proposed project team, as listed in the approved Cost Proposal attached hereto and incorporated herein as a part of Exhibit C Compensation and Method of Payment, which is a part of this Contract without prior written approval by City’s contract administrator as designated from time to time by the Public Works Director.

2. TERM OF CONTRACT

A. This Contract shall be effective as of the date executed by the Parties and approved as to form by the City Attorney and shall terminate at 11:59 p.m. on June 30, 2028, with the option by City, in City’s sole discretion to extend the term of the Contract for one (1), one (1), year extension, unless earlier terminated pursuant to Section 14 of this Contract. Notwithstanding any other provision of this Contract, the City Manager shall be authorized to modify the Scope of Work and/or extend the termination date of this Contract (including, as necessary, modification of the Scope of Work and/or Schedule of Performance as to time of performance) by a writing signed by the City Manager and the Consultant prior to the initial termination or any extended termination date.

B. The period of performance for each specific task 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 for work to

continue, the Contract must be extended by written Contract amendment. Should an extension not be executed by written Contract amendment no further Task Order work shall be billed to the City.

3. SCHEDULE FOR PERFORMANCE

Performance shall be in accordance with the terms of this Contract and each individual Task Order as issued. Consultant's failure to complete work in accordance with the Schedule of Performance may result in delayed compensation as described in Section 4 and/or termination of the Contract.

4. COMPENSATION

A. City shall pay Consultant pursuant to Exhibit C Compensation and Method of Payment for services as described in the Scope of Work and the Not to Exceed amount set forth in each individual Task Order in accordance with the rate schedule set forth on Exhibit "C", which is attached hereto and incorporated herein by reference. The specified hourly billing rates shall include (actual cost) direct salary costs, employee benefits, overhead, and a fixed fee. Actual costs may also include travel, equipment rental costs, and other direct costs incurred by the Consultant. Said amount shall be paid upon submittal of a monthly invoice showing completion of the tasks that month, including the services rendered, the costs incurred for materials, the person(s) rendering performed services, the amount of time spent by such person(s) and the applicable hourly rate. Consultant shall only be reimbursed for incurred (actual) direct costs other than hourly billing costs that are identified in the executed Task Order. In no event shall Consultant be entitled to compensation for work not included in each Task Order's Scope of Work, unless a written task order amendment or authorization describing the extra work and payment terms has been executed by City and Consultant. In no event shall total compensation paid to Consultant under this Contract, including all Task Orders, exceed One Million Dollars and No Cents (\$1,000,000), without City's prior written approval.

B. The indirect cost rate established for this Contract is extended through the duration of this specific Contract.

C. In addition to the allowable incurred actual costs, the City will pay the Consultant a fixed fee of **X%** for hourly billing rates. The fixed fee is nonadjustable for the term of the Contract, except in the event of a significant change in the scope of work and such adjustment is made by Contract amendment.

D. If Consultant's performance is not in conformity with the Scope of Work, including but not limited to, failure to satisfactorily complete any deliverable in the sole discretion of the City, lack of conformity to the Schedule of Performance, or claims for compensation that don't conform to the billing practices in section A above, invoices will be rejected and payments may be delayed or denied in whole or in part, unless otherwise agreed to by City in writing.

E. Consultant shall designate an invoice manager which shall serve as a single point of contact for the City to address any invoicing questions, concerns, credits, or revisions.

F. If the work is halted at the request of City, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract, subject to Section 14, Termination.

G. Prompt Payment from the City to Consultant

The City will endeavor to make a progress payment within 30 days after receipt of an undisputed and properly submitted payment request from Consultant on a professional service contract. The City shall act in accordance with both of the following:

(1) Each payment request shall be reviewed by the City as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.

(2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to Consultant as soon as practicable, and City will endeavor to do so not later than thirty (30) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

H. Prompt Payment Certification

Consultant shall submit Exhibit 9-P to the City by the 15th of the month following the month of any payment(s). If the Consultant does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.

The City must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The City must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the Consultant.

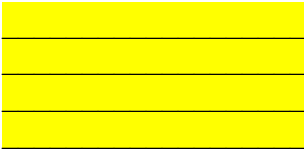
5. NOTICES

A. Consultant shall transmit invoices and any notices required by this Contract, to City as follows:

City of Elk Grove
Attn: Finance Department
8401 Laguna Palms Way
Elk Grove, California 95758

Consultant shall serve the City notice in writing by certified mail prior to a change of address. The notice shall include the new address where notices and communications related to the Agreement may be sent, the point of contact for the Agreement, and include the point of contact's phone number and email address.

B. City shall transmit payments on invoiced amounts and any notices required by this Contract to Consultant as follows:



6. PROFESSIONAL SERVICES

Consultant agrees that services shall be performed and completed in compliance with the professional standards observed by a competent practitioner of the profession in which Consultant and its subcontractors or agents are engaged. Consultant shall not, either during or after the term of this Contract, make public any reports or articles, or disclose to any third party any information, confidential or otherwise, relative to the work of City or the operations or procedures of City without the prior written consent of City.

Consultant further agrees that it shall not, during the term of this Contract, take any action that would affect its impartiality or professionalism due to the City, whether perceived or actual.

7. INDEPENDENT CONTRACTOR

A. It is understood and agreed that Consultant (including Consultant's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto.

B. Consultant's assigned personnel shall not be entitled to any benefits payable to employees of City.

C. City is not required to make any deductions or withholdings from the compensation payable to Consultant under the provisions of the Contract and is not required to issue W-2 Forms for income and employment tax purposes for any of Consultant's assigned personnel.

D. Consultant, in the performance of its obligation hereunder, is only subject to the control or direction of City as to the designation of tasks to be performed and the results to be accomplished.

E. Any third-party person(s) employed by Consultant shall be entirely and exclusively under the direction, supervision, and control of Consultant.

F. Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Contract.

8. PREVAILING WAGE RATES

A. Consultant and Subconsultant(s) performing Public Works shall register with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this Contract, including any subsequent amendments.

B. The Consultant shall comply with all the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this Contract are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this Contract by reference pursuant to Labor Code §1773.2 and will be applicable to Work performed at a construction Project site. Prevailing wages will be applicable to all inspection work performed at City construction sites, at City facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve City projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

C. General Prevailing Wage Rate Determinations applicable to this Project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.

D. Payroll Records

1. Each Consultant and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Consultant or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

a. The information contained in the payroll record is true and correct.

b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.

2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the Consultant under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by City representatives at all reasonable hours at the principal office of the Consultant. The Consultant shall provide copies of certified payrolls or permit inspection of its records as follows:

a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of City, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to City, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the Consultant.

c. The public shall not be given access to certified payroll records by the Consultant. The Consultant is required to forward any requests for certified payrolls to the City Contract Administrator by both email and regular mail within one business day following receipt of the request.

3. Each Consultant shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.

4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by City shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the Consultant or Subconsultant performing the work shall not be marked or obliterated.

5. The Consultant shall inform the City of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

6. The Consultant or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the Consultant or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to City, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by City from payments

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

E. When prevailing wage rates apply, the Consultant is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the City Contract Administrator.

F. Penalty

1. The Consultant and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the Consultant and any Subconsultant shall forfeit to the City a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the Contract by the Consultant or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the Consultant or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the Consultant or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the Consultant or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the Consultant or Subconsultant had knowledge of the obligations under the Labor Code. The Consultant is responsible for paying the appropriate rate, including any escalations that take place during the term of the Contract.

3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Consultant or Subconsultant.

4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the Consultant which the Project Contract is awarded to (prime Consultant) is not liable for the penalties described above unless the prime Consultant had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime Consultant fails to comply with all of the following requirements:

a. The Contract executed between the Consultant and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.

b. The Consultant shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.

c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the Consultant shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.

d. Prior to making final payment to the Subconsultant for work performed on the public works project, the Consultant shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.

5. Pursuant to Labor Code §1775, City shall notify the Consultant on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.

6. If City determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if City did not retain sufficient money under the Contract to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the Consultant shall withhold an amount of monies due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by City.

G. Hours of Labor

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

H. Employment of Apprentices

1. Where either the signed contract with the selected prime Consultant (prime Contract) or the sub consultant contract (subcontract) exceeds thirty thousand dollars (\$30,000), the

Consultant and any subconsultants under him or her shall comply with all applicable requirements of Labor Code § 1777.5, 1777.6 and 1777.7 in the employment of apprentices.

2. Consultants and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, Consultant and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the Contract work. The Consultant is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

9. PROHIBITION OF EXPENDING CITY, STATE, OR FEDERAL FUNDS FOR LOBBYING

A. The Consultant certifies, to the best of their knowledge and belief, that:

1. No State, Federal, or City appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this Contract, or with the extension, continuation, renewal, amendment, or modification of this Contract.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Contract, the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

C. The Consultant also agrees by signing this document that they shall require that the language of this certification be included in all lower tier subcontracts, which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly

10. NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

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

B. During the performance of this Contract, Consultant and its subconsultants shall not deny the Contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

C. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by the City to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this Contract by reference and made a part hereof as if set forth in full.

D. Consultant shall permit access by representatives of the Department of Fair Employment and Housing and the City upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or City shall require to ascertain compliance with this clause.

E. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

F. Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Contract.

G. The Consultant, with regard to the work performed under this Contract, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any

program or activity by the recipients of federal assistance or their assignees and successors in interest.

H. The Consultant shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the Consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

I. Consultant, subrecipient or subconsultant shall never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the City components of the DBE Program Plan, Consultant, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

11. AUTHORITY OF CONSULTANT

Consultant shall possess no authority with respect to any City decision and no right to act on behalf of City in any capacity whatsoever as agent, or to bind City to any obligations whatsoever.

12. CONFLICT OF INTEREST

Consultant certifies that it has disclosed to City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Contract. Consultant agrees to advise City of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Contract. Consultant further agrees to complete any statements of economic interest if required by either City ordinance or State law.

13. AMENDMENTS, CHANGES OR MODIFICATIONS

Amendments, changes or modifications in the terms of this Contract may only be made by mutual written Contract amendment between the Parties hereto and shall be signed by the persons authorized to bind the Parties, in the case of the City such amendments shall be authorized by the City Manager.

14. TERMINATION

A. This Contract may be terminated by City, provided that City gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, City shall be entitled to all work, including but not limited to, reports, investigations,

appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 21, Property of City.

B. The City may temporarily suspend this Contract, at no additional cost to City, provided that Consultant is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City gives such notice of temporary suspension, Consultant shall immediately suspend its activities under this Contract. A temporary suspension may be issued concurrent with the notice of termination provided for in subsection A of this section.

C. Notwithstanding any provisions of this Contract, Consultant shall not be relieved of liability to City for damages sustained by virtue of any breach of this Contract by Consultant, and City may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due City from Consultant is determined.

D. In the event of termination, Consultant shall be compensated as provided for in this Contract, except as provided in Section 14C. Upon termination, City shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 18, Property of City.

15. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The 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 this Contract without liability, to pay only for the value of the work actually performed, or to deduct from this Contract price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

16. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

A. The Consultant agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.

B. The Consultant also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

C. Any costs for which payment has been made to the Consultant that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the Consultant to City.

D. When a Consultant or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

17. RETENTION OF RECORD/AUDITS

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

18. FUNDING

Consultant agrees and understands that renewal of this Contract in subsequent years is contingent upon action by the City Council, consistent with the appropriation limits of Article XIII B of the California Constitution, and that the City Council may determine not to fund this Contract in subsequent years.

19. NOTICE TO PROCEED

Prior to commencing work under this Contract, Consultant shall receive a written "Notice to Proceed" from the City's Public Works Director, or their authorized representative. A Notice to Proceed shall not be issued until all necessary insurances have been received. City shall not be obligated to pay Consultant for any services prior to issuance of the Notice to Proceed.

20. EXTENSIONS OF TIME

Consultant may, for good cause, request extensions of time to perform the services required hereunder. Such extensions must be authorized in advance by City, in writing, and at City's sole discretion. Such extensions, if authorized, shall be incorporated in written amendments to this Contract or the attached Scope of Work in the manner provided in Section 13.

21. PROPERTY OF CITY

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

B. Additionally, it is agreed that the Parties intend this to be a contract for services and each considers the products and results of the services to be rendered by Consultant hereunder to be work made for hire. Consultant acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by the City.

C. Nothing herein shall constitute or be construed to be any representation by Consultant that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.

22. COMPLIANCE WITH LAW

Consultant shall comply with all applicable laws, ordinances, and codes of federal, State and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract. As applicable, it shall be City's responsibility to obtain all rights-of-way and easements to enable Consultant to perform its services hereunder; Consultant shall assist City in providing the same.

23. REPRESENTATIONS

A. Consultant agrees and represents that it is qualified to properly provide the services set forth herein, in a manner that is consistent with the generally accepted standards of Consultant's profession.

B. Consultant agrees and represents that the work performed under this Contract shall be in accordance with applicable federal, State and local law.

C. Consultant shall designate a contract manager who at all times shall represent the Consultant before the City on all matters relating to this Contract. The contract manager shall continue in

such capacity unless and until they are removed at the request of City, is no longer employed by Consultant, or is replaced with the written approval of City, which approval shall not be unreasonably withheld.

D. Consultant shall have a quality management plan in place. The quality management plan must include, but is not limited to, internal quality control and quality assurance procedures with clear separation of responsibilities between for both procedures. The Consultant shall utilize the quality management plan procedures as part of the submittal of all work products and all work products shall be reviewed before submittal to the City. Consultant shall certify that each work product has been reviewed using the procedures from the quality management plan. Each certification shall be signed by the preparer of the work product, quality control reviewer and quality assurance reviewer approving the work product for submittal to the City. Consultant shall utilize quality control staff with demonstrated experience and competence in the area involved in the work product. Consultant shall retain a copy of the quality management plan and the quality control and quality assurance completed for each work product. No payment shall be paid for work products submitted to the City which have not been reviewed and certified. The Consultant shall provide the City with a copy of the quality management plan and the quality control and quality assurance completed for each work product, if requested. The Consultant shall update the quality management plan at least annually and in consideration of input from the City.

E. Consultant shall provide corrective services without charge to City for services which fail to meet the above professional and legal standards and which are reported to Consultant in writing within sixty (60) calendar days of discovery. Should Consultant fail or refuse to perform promptly its obligations, the City may render or undertake performance thereof and Consultant shall be liable for any expenses thereby incurred.

24. APPROVAL OF STAFF MEMBERS

A. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Contract. Consultant shall notify City of any changes in Consultant's staff to be assigned to perform the services required under this Contract and shall obtain the approval of the City's Public Works Director or their authorized representative of a list of all proposed staff members who are to be assigned to perform services under this Contract prior to any such performance. The list shall include staff member names, corresponding classification or job title, hourly billing rate, location and qualifications.

25. ASSIGNMENT AND SUBCONTRACTING:

A. Except as expressly authorized herein, Consultant's obligations under this Contract are not assignable or transferable, and Consultant shall not subcontract any work, without the prior written approval of the City. However, claims for money due or which become due to Consultant from City under

this Contract may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to City.

B. Nothing contained in the Contract or otherwise, shall create any contractual relationship between the City and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be 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 omission of persons directly employed by Consultant. Consultant shall review all work produced by any subconsultant prior to providing such to the City and certify such work under the process found in Section 22(D). Consultant's obligation to pay its subconsultant(s) is an independent obligation from the City's obligation to make payments to the Consultant.

C. Any substitution of subconsultant(s) or contractor(s) must be approved in writing by the City's Public Works Director or his/her authorized representative prior to the start of work by the subconsultant(s).

D. Consultant shall be as fully responsible to City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by Consultant.

E. Any subcontract entered into as a result of this Contract, shall contain all the provisions stipulated in this entire Contract to be applicable to Subconsultants unless otherwise noted.

F. Consultant shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the Consultant by the City.

G. Any substitution of Subconsultants must be approved in writing by the City's Public Works Director or their authorized representative in advance of assigning work to a substitute Subconsultant.

H. Prompt Progress Payment

Consultant or subconsultant shall pay to any subconsultant, not later than seven (7) days after receipt of each progress payment, the respective amounts allowed Consultant on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a bona fide dispute over all or any portion of the amount due on a progress payment from Consultant or subconsultant to a subconsultant, Consultant or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the Consultant to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made pursuant to the California Public Contract Code. As a disciplinary action, the City will withhold payment until subconsultant is paid.

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

26. MATERIALS CONFIDENTIAL

All of the materials prepared or assembled by Consultant pursuant to performance of this Contract are confidential and Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of City, or except by court order. If Consultant or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from Consultant for any damages caused by Consultant releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

27. LIABILITY OF CONSULTANT—NEGLIGENCE

Consultant shall be responsible for performing the work under this Contract in a manner which is consistent with the generally-accepted standards of Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. City shall have no right of control over the manner in which the work is to be done but only as to its outcome and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors or subcontractors.

28. INDEMNITY AND LITIGATION COSTS

To the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss, or other loss or damage arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this Contract on the part of Consultant, except such loss or damage which was caused by the sole negligence, or willful misconduct of the City, as determined by a Court of competent jurisdiction. Unless and until such judicial determination is made, or as otherwise agreed by the parties, Contractor shall remain obligated to defend, indemnify, and hold harmless the City, its officers, officials, employees, volunteers, and agents pursuant to this Contract. The provisions of this section shall survive termination or suspension of this Contract.

In any contract that Consultant enters into with any subcontractor in any capacity related to any and all duties under this Contract, there must be an indemnification provision identical to the one provided in this Section applicable to the subcontractor requiring the subcontractor to assume the defense, indemnify and save harmless the City to the same extent as Consultant. Consultant’s failure to include such an indemnification provision in any contract with a subcontractor shall constitute a material breach of this Contract. In the event Consultant fails to obtain such indemnity obligations from others as required herein, Consultant agrees to be fully responsible and indemnify, and save harmless the City as prescribed under this Section.

29. INSURANCE

Prior to commencement of any work under this Contract, Consultant shall provide and maintain in effect during the term of this Contract evidence of insurance coverage as set forth in **Exhibit D**, attached hereto and incorporated herein by reference. These insurance requirements are summarized as follows:

INSURANCE SUMMARY

TYPE	SINGLE LIMIT / OCCURRENCE	AGGREGATE	ENDORSEMENTS***
General Liability	\$1,000,000	\$1,000,000	Additional Insured Waiver of Subrogation Primary and Non-Contributory
Automobile Liability	\$1,000,000	\$1,000,000	Additional Insured
Work Comp Employer’s Liability	Statutory \$1,000,000 each		Waiver of Subrogation
Professional Liability/Errors and Omissions	\$1,000,000	\$1,000,000	Requirement extends 3 years past contract expiration

***Must be actual endorsements. Typed statements on Certificates of Liability are unacceptable.

This is a summary only. Please refer to the insurance section and/or exhibit of this contract for specific requirements.

Furthermore, Consultant shall certify its compliance with Labor Code Section 3700 in the form attached hereto and incorporated by reference, as **Exhibit E**.

30. EVIDENCE OF INSURANCE COMPLIANCE

Consultant or its insurance broker shall deliver the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage to City. City may designate an insurance certificate processor (“Processor”) to accept and process Consultant’s proof of insurance. Consultant shall deliver copies of the actual insurance policies, renewals, or replacements directly to City or Processor upon their request.

31. EMPLOYMENT PRACTICES

Consultant, by execution of this Contract, certifies that it does not discriminate against any person upon the basis of race, color, creed, national origin, age, sex, disability marital status, or any other protected class in its employment practices.

32. UNAUTHORIZED ALIENS

Consultant hereby promises and agrees to comply with all of the provisions of the federal immigration and nationality act (8 U.S.C.A. § 1101 et seq.), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Contract, and should the federal government impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys’ fees, incurred by the City in connection therewith.

33. LICENSES, PERMITS, AND OTHER APPROVALS

Consultant represents and warrants to City that it has all licenses, permits, qualifications and approvals of whatsoever nature legally required for Consultant to practice its profession and perform the work described herein. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, obtain and/or keep in effect at all times during the term of this Contract any licenses, permits, and approvals which are legally required for Consultant to practice its profession at the time the services are performed.

34. RECORDS AND INSPECTION

Consultant shall maintain records, books, documents and other evidence directly pertinent to the performance of work under this Contract in accordance with generally accepted accounting principles and practices. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

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

35. AUDIT REVIEW PROCEDURES

A. Any dispute concerning a question of fact arising under an interim or post audit of this Contract that is not disposed of by Contract, shall be reviewed by City's Finance Director.

B. Not later than thirty (30) calendar days after issuance of the final audit report, Consultant may request a review by City's Finance Director of unresolved audit issues. The request for review shall be submitted in writing.

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

D. Consultant and subconsultant Contracts, including cost proposals and Indirect Cost Rates (ICR), may be 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, City, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The Contract, cost proposal, and ICR shall be adjusted by Consultant and approved by City contract administrator to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Contract by this reference if directed by City at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, City or local governments have access to CPA work papers, will be considered a breach of Contract terms and cause for termination of the Contract and disallowance of prior reimbursed costs.

E. Consultant's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the Consultant and approved by the City contract administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the Consultant to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the Contract terms and cause for termination of the Contract and disallowance of prior reimbursed costs.

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

2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.

3. If the Consultant fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement shall be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR shall become the actual and final ICR for reimbursement purposes under this Contract.

4. Consultant may submit to the City final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this Contract has been completed to the satisfaction of the City; and, (3) IOAI has issued its final ICR review letter. The Consultant **MUST SUBMIT ITS FINAL INVOICE TO** City no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR shall apply to this Contract and all other contracts executed between the City and the Consultant, or subconsultant, with the same fiscal period ICR.

36. DEBARMENT AND SUSPENSION CERTIFICATION

A. The Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the Consultant or any person associated therewith in the capacity of owner, partner, director, officer or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;

3. Does not have a proposed debarment pending; and

4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

B. Any exceptions to this certification must be disclosed to City. Exceptions will not necessarily result in denial of recommendation for award but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

37. DISADVANTAGE BUSINESS ENTERPRISES (DBE) PARTICIPATION

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

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

Consultant has met the DBE Goal for this Project based on Exhibit A, “Scope of Work” and Exhibit C, “Compensation and Method of Payment”.

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

1. 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
2. 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
3. Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

D. This Contract is subject to 49 CFR Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.” Consultants who enter into a federally-funded Contract shall assist the City in a good faith effort to achieve California's statewide overall DBE goal.

E. The goal for DBE participation for this Contract is 20% for this Project. Participation by DBE Consultant or subconsultants shall be in accordance with information contained in Exhibit 10-O1: Consultant Proposal DBE Commitment , or in Exhibit 10-O2: Consultant Contract DBE Commitment 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.

F. Consultant can meet the DBE participation goal by either documenting commitments to DBEs to meet the Contract goal, or by documenting adequate good faith efforts to meet the Contract goal. An adequate good faith effort means that the Consultant must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If Consultant has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

G. Contract Assurance

Under 49 CFR 26.13(b):

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

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

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

H. Termination and Replacement of DBE Subconsultants

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

Termination of DBE Subconsultants

After execution of the Contract, termination of a DBE may be allowed for the following, but not limited to, justifiable reasons with prior written authorization from the City:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the Project.
2. The City stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the City's bond requirements.
3. Work requires a Consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).

5. Listed DBE's work is unsatisfactory and not in compliance with the Contract.
6. Listed DBE is ineligible to work on the Project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent or exhibits credit unworthiness.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The City determines other documented good cause.

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

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

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

Replacement of DBE Subconsultants

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

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

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

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

I. Commitment and Utilization

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

The City shall request Consultant to:

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

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

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

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

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

J. Commercially Useful Function

DBEs must perform a commercially useful function (CUF) under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBE value of work will only count toward the DBE commitment if the DBE performs a CUF. A DBE performs a CUF when it is responsible for execution of the work of the 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.

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

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

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

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

Consultant must monitor all DBE's performance of CUF by conducting quarterly evaluations and validations throughout their duration of work on the Contract using the LAPM 9-J: DBE Commercially Useful Function Evaluation. Consultant must submit to the City these quarterly evaluations and validations by the 5th of the month for the previous three months of work.

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

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

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

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

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

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

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

K. 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.

L. 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 based on normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

M. Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall

show the date of payment and the total dollar figure paid to all firms. DBE Consultant's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

N. 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 shall be reported to City's Contract Administrator within thirty (30) calendar days.

O. By the 15th day of the month following the month of any payment(s), the Consultant must submit Exhibit 9-P to the City. If the Consultant does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

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

38. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

39. ASSURANCES

APPENDICES A - E

APPENDIX A

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

- a. Compliance with Regulations: Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. Nondiscrimination: Consultant, with regard to the work performed by it during the

AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

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

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

United States to enter into such litigation to protect the interests of the United States.

APPENDIX B
CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the Project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations,

U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

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

APPENDIX C

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

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

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, or other legal interests, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

APPENDIX D

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

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

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs,

personal representatives, successors in interest ,and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, or other legal interests) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, or other legal interests) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

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

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C.1681 et seq).

40. MISCELLANEOUS PROVISIONS

A. Attorneys’ Fees: In the event an action or proceeding is instituted by either party for the breach or enforcement of any provision of this Contract, the prevailing party shall be entitled to reasonable attorneys’ fees and all litigation expenses, including, but not limited to expert’s fees and disbursements.

B. Venue: This Contract shall be deemed to be made in, and the rights and liabilities of the Parties, and the interpretation and construction of the Contract governed by and construed in accordance with the laws of the State of California. Any legal action arising out of this Contract shall be filed in and adjudicated by a court of competent jurisdiction in the County of Sacramento, State of California.

C. Enforceability: If any term or provision of this Contract is found to be void, voidable, invalid or unenforceable by a court of competent jurisdiction under the laws of the State of California, any and all of the remaining terms and provisions of this Contract shall remain binding.

D. Time: All times stated herein or in any other Contract Documents are of the essence.

E. Binding: This Contract shall bind and inure to the heirs, devisees, assignees and successors in interest of Consultant and to the successors in interest of City in the same manner as if such parties had been expressly named herein.

F. Survivorship: Any responsibility of Consultant for warranties, insurance, indemnity, record-keeping or compliance with laws with respect to this Contract shall not be invalidated due to the expiration, termination or cancellation of this Contract.

G. Construction and Interpretation: Consultant and City agree and acknowledge that the provisions of this Contract have been arrived at through negotiation and that each party has had a full and fair opportunity to revise the provisions of this Contract and to have such provisions reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Contract shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as a substantive portion of this Contract.

H. Waiver: The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Contract shall not be deemed a waiver with respect to any subsequent default or other matter.

I. Severability: The invalidity, illegality or unenforceability, of any provision of this Contract shall not render the other provisions invalid, illegal or unenforceable.

J. No Third Party Beneficiary: It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to the City and Consultant. Nothing contained in the agreement shall give or allow any claim or right of action whatsoever by any third party. It is the express intent of the City and the Consultant that any such person or entity, other than the City or Consultant, receiving benefits or services under this agreement shall be deemed as incidental beneficiary.

K. Non-Discrimination/Non-Preferential Treatment Statement: In performing this Contract, the parties shall not discriminate or grant preferential treatment on the basis of race, sex, color, age,

religion, sexual orientation, disability, ethnicity, or national origin, and shall comply to the fullest extent allowed by law, with all applicable local, state, and federal laws relating to nondiscrimination.

L. Authority to Execute: The person or persons executing this Contract on behalf of the Consultant warrant and represent that they have the authority to execute this Contract on behalf of their agency and further warrant and represent that they have the authority to bind Consultant to the performance of its obligations hereunder.

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

N. Force Majeure: Neither party shall be in default by reason of any failure in the performance of this Contract if such failure arises out of causes beyond its reasonable control. Such causes may include, but are not limited to, acts of God, acts of the public enemy, acts of government in either its sovereign or contractual capacity, acts of the party whose performance is not sought to be excused, fires, flood, weather, epidemics, quarantine restrictions, strikes, freight embargoes, failure of transmission or power supply, mechanical difficulties with equipment which could not have been reasonably forecasted or provided for, or other causes beyond its sole control. The party so affected will resume performance as soon as practicable after the force majeure event terminates.

41. ENTIRE CONTRACT

This instrument and any attachments hereto constitute the entire Contract between City and Consultant concerning the subject matter hereof and supersedes any and all prior oral and written communications between the Parties regarding the subject matter hereof.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.)

AGREED to this _____ day of _____, 2025, by the Parties as follows:

Approved to as form:

CONSULTANT

By: _____
Attorney for Consultant

By: _____
Consultant **Name, Title**

Approved to as form:

CITY OF ELK GROVE

By: _____
Jonathan P. Hobbs, City Attorney

By: _____
Jason Behrmann, City Manager

Attest to:

Jason Lindgren, City Clerk Date

EXHIBIT A: SCOPE OF WORK

The scope of work outlined below represents the minimum services required by the City. This list is not exhaustive, and additional tasks may be requested. Consultants are expected to include any additional services they deem necessary based on their understanding of this Request for Proposal. To be eligible for contract award, consultants must provide all services specified in the Scope of Work.

The Consultant shall ensure the tasks outlined herein are performed by the Consultant's own responsible representative or designated subconsultant. Any subconsultant not listed and utilized at a later date must be approved by the City. The requirements described in this Section are neither limited nor comprehensive in nature but are the minimum necessary to meet the City's objectives. Detailed work procedures are not included in the Scope of Work. The Consultant shall exercise independent, professional judgment and innovation in the performance of any services or tasks listed herein to achieve the most effective and efficient product. The specific methodology by which the work will be accomplished shall be presented in the proposal. The Consultant is expected to expand on this scope in their proposal by incorporating specific areas of expertise and any other tasks required for a specific project and/or proposal requested.

All Consultant staff shall perform responsibilities established under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601) (Uniform Act) consistent with 49 CFR 1.85, the Caltrans Right-of-Way Manual, Chapter 13 "Right of Way" of Caltrans latest Local Assistance Procedures Manual (LAPM), and all other applicable laws and regulations.

1. Real Property Appraiser Services

Responsible for the preparation of appraisal reports to determine the fair market value of the rights to be acquired from each subject property, prepared in accordance with professional standards, Uniform Standards of Professional Appraisal Practices (USPAP), the Caltrans Right-of-Way Manual and all applicable laws and regulations. Appraisal Consultant shall be able to provide a fair market value whether those rights are temporary, permanent, in fee, or easement, or compensable damages accrue to property as a result of a project. The appraiser shall measure the fair market value of the rights to be acquired to include, assessing severance damages to property acquisitions/remainers. Appraisers shall be knowledgeable and have experience with appraising full and partial takes, easements, and fee simple acquisitions from commercial, residential and agricultural properties. The Consultants for Real Property Appraiser Services must meet the following minimum qualifications, according to the Caltrans Right-of-Way Manual, and must possess:

- (a) Residential License for any noncomplex 1-4 family property with value of \$1 million and nonresidential property with a transaction value up to \$250,000.
- (b) Certified Residential license for any 1-4 family property without regard to transaction value or complexity; and nonresidential property with a transaction value up to \$250,000.
- (c) Appropriate appraisal license as issued by the California Office of Real Estate Appraisers

- in accordance to the degree, complexity, and certified General for all real estate without regard to transaction value or complexity.
- (d) Minimum two (2) years' experience in appraisal of rights for eminent domain purposes.
 - (e) Successful completion of a course in appraisal of partial acquisitions for public agencies.
 - (f) Successful completion of a course in the Uniform Relocation and Real Property Acquisition Policies-Act taught by a recognized organization.
 - (g) Successful completion of a course in State Eminent Domain Law taught by a recognized organization.
 - (h) Specific knowledge and experience appropriate for the type of assignment.

2. Review Appraiser Services

Responsible for the preparation of independent and objective written reviews of the real property appraiser consultant's reports. Reviews shall be completed in the form of a Review Appraiser Certificate (Exhibit 7-EX-24D of the Caltrans Right-of-Way Manual) for each subject property appraisal to ensure appraisal quality and procedure. All reviews shall adhere to professional standards: USPAP, Caltrans Right-of-Way Manual, and all applicable laws and regulations. The review appraiser shall recommend approval of the reported values to City to govern negotiation and settlement. The review appraiser shall not be the same individual as the initial appraisal consultant. The review appraiser services shall meet the following minimum qualifications, according to the Caltrans Right-of-Way Manual, and must possess:

- (a) Certified General License for all real estate without regard to transaction value or complexity.
- (b) Minimum two (2) years' experience in reviewing appraisals for eminent domain purposes.
- (c) Successful completion of courses in the Uniform Relocation and Real Property Acquisition Act and State Eminent Domain Law taught by a recognized organization.
- (d) Specific knowledge and experience appropriate for the type of assignment.

3. Acquisition and Negotiation Services

Responsible for "good faith negotiations" with property owners for the purchase of various property rights including temporary, permanent, in fee, or easement, or compensable damage payments, based on values established in approved appraisals; preparation of written correspondence, including offer packages, coordination with City staff, and performance of notary services related to the signing of acquisition documents. Consultant shall adhere to all professional standards and the Caltrans Right-of-Way Manual and all applicable laws and regulations. The Acquisition and Negotiation Services Specialist shall meet the following minimum requirements: Real Estate Broker's or Salesperson's License (when under direct supervision of a Real Estate Broker) as issued by the California Department of Real Estate. All Right of Way Contracts must be approved for content and signed or initialized by the Real Estate Broker.

- (a) Minimum two (2) years' experience in the acquisition of rights for eminent domain purposes.

- (b) Successful completion of course in the Uniform Relocation and Real Property Acquisition Policies Act and State Eminent Domain law taught by recognized organizations. By signing the Right of Way Contract, the Broker or Principal of the Company acknowledges responsibility for maintaining a complete file on each parcel.
- (c) Experience with working with Public Agencies.

4. Relocation Services

Responsible for providing relocation assistance to displaced parties, if any, resulting from an acquisition of necessary property rights, and conducted per applicable professional standards and the Caltrans Right-of-Way Manual and all applicable laws and regulations. Occupancy may be owner occupied or tenant, residential or nonresidential, including agricultural uses. Relocation specialists may be used to prepare relocation impact documents (part of an environmental clearance document) in planning stage. Consultants must meet the following minimum qualifications:

- (a) Assigned personnel must have at least two (2) years of expertise to meet the project's specific needs. For instance, business relocations will be managed by individuals with relevant prior specific experience.
- (b) Successful completion of courses in the Uniform Relocation and Real Property Acquisition Policies Act and State Eminent Domain Law taught by recognized organizations.
- (c) Specific knowledge and experience appropriate for the type of assignment.

5. Escrow and Title Coordination Services

Escrow Services to be performed shall consist of those escrow services normally provided in a real property purchase and sale transaction including, but not limited to:

- (a) Obtain partial and full reconveyances of deeds of trust.
- (b) Prorate property taxes and pay any taxes due to the City at close of escrow.
- (c) Obtain Real Estate Division's and grantor's approval of Closing Statements, transfer tax affidants, and preliminary change or ownership reports for the transaction.
- (d) Assist the Real Estate Division to resolve issues affecting marketability of title through, among other things, recordation of corrective instruments and the filing of actions under California Code of Civil Procedure Sections 751.01 et seq., the Destroyed Lands Records Act.
- (e) Record grant deeds, certificates of acceptance, memoranda of agreements, and related and similar documents for the transfer or real property and/or real property interest to/from the Real Estate Division or City.
- (f) Distribute executed and/or recorded closing documents to the parties.
- (g) Receive and disburse funds payable to the parties at the closing of each parcel acquired by Real Estate Division.
- (h) Other escrow actions as required to close.
- (i) Title Coordination Services shall include obtaining preliminary and other types of title

reports for parcel the City intends to acquire, copies of underlying exception documents, and other related information and documents of record concerning title to any parcel required, including but not limited to, copies of applicable vesting deeds, chain of title reports, confirmation of the status of tax payments on the property, and a list and copy of all liens, claims, encumbrances, easements, rights-of-way, reservations, restrictions, covenants, and other conditions affecting title.

6. Project Management Services

Project Management Services to be performed shall include, but are not limited to, the following tasks:

- (a) Coordination and attendance of meetings with stakeholders for real estate transactions for the project.
- (b) Provide general consultations, including right of way matters pertaining to the project.
- (c) Maintain project records consistent with federal and state agency audit standards.
- (d) Preparation of resolution of necessity documentation, if required.

7. Project Tracking and Clerical Services

Project tracking and clerical services shall provide the necessary tracking and clerical work for projects. This shall include creating and updating right of way acquisition work documents such as title and escrow reports, recorded map, correspondence to and from owner, relocation plans, and any other such documentation that may be required to complete the real estate transaction.

Exact tasks, deliverables, and schedules will be identified in a task order. The Consultant shall provide a complete budget for services identified in the task order based on the Consultant's submitted hourly rate sheet included as part of the Agreement.

EXHIBIT B: SCHEDULE OF PERFORMANCE

Performance shall be in accordance with each individual Task Order as issued.

EXHIBIT C: COMPENSATION AND METHOD OF PAYMENT

Under no circumstances will the aggregate amount paid under this Contract exceed the amount specified in Section 4A above and if the Contract is approved by the City Manager, all compensation paid to Consultant each year shall meet the cost limitation set forth in City of Elk Grove Municipal Code Chapter 3.42.

EXHIBIT D: INSURANCE REQUIREMENTS

Prior to commencement of any work under this Contract, Consultant shall provide to the City proof of, and maintain in full force and effect at all times during the term of the Contract, at its sole cost and expense, policies of insurance as set forth herein. Consultant shall comply with all reporting and other provisions of the policies of insurance as set forth herein including, but not limited to, timely reporting of claims and suits. Further, should Consultant maintain any programs of self-insurance, Consultant shall comply with the applicable fulfillment of any self-insured retentions.

1. General Liability:

- a. Comprehensive general liability insurance including, but not limited to, protection for claims of bodily injury, property damage, and personal and advertising injury liability.
- b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
- c. Claims-made coverage is not acceptable.
- d. The limits of liability shall not be less than:

Each occurrence:	One Million Dollars (\$1,000,000)
Personal & Advertising Injury	One Million Dollars (\$1,000,000)
Aggregate:	One Million Dollars (\$1,000,000)
- e. The City, its officials, employees, agents and authorized volunteers shall be covered and specifically named as additional insured as respects liability arising out of activities performed by or on behalf of Consultant, products and completed operations of Consultant, and premises owned, occupied, or used by Consultant on a separate endorsement acceptable to the City.
- f. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents, and authorized volunteers for losses arising from work performed by Consultant.
- g. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents, or authorized volunteers.
- h. Provision or endorsement stating that for any claims related to this contract, Consultant's insurance coverage shall be primary insurance as respects the City, its officials, employees, agents, and authorized volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officials, employees, agents, or authorized volunteers shall be in excess of Consultant's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss or judgment.

2. Automobile Liability:
 - a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of operation, maintenance, or use of hired and non-owned automobiles.
 - b. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbols 8, and 9 (hired, and non-owned). Contractor's coverage providing symbol 1 (Any Auto) shall be satisfactory
 - c. The limits of liability per accident shall not be less than:

Combined Single Limit	One Million Dollars (\$1,000,000)
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 - d. The City, its officials, employees, agents and authorized volunteers shall be covered and specifically named as additional insured.

3. Workers' Compensation:
 - a. Workers' Compensation Insurance, with coverage as required by the State of California (unless Consultant is a qualified self-insurer with the State of California or is not required by California law to carry workers' compensation coverage), and Employers Liability coverage. Consultant shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in Exhibit E.
 - b. Employer's Liability Coverage shall not be less than the statutory requirements.
 - c. If an injury occurs to any employee of Consultant for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due Consultant under this Contract, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to Consultant.
 - d. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents, and authorized volunteers for losses arising from work performed by Consultant.

4. Errors and Omissions; Malpractice; Professional Liability:
 - a. Errors and omissions, malpractice, or professional liability insurance sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this Contract.

- b. The limits of liability shall not be less than:
- | | |
|---------------------------|-----------------------------------|
| Each occurrence or claim: | One Million Dollars (\$1,000,000) |
| Aggregate: | One Million Dollars (\$1,000,000) |
- c. Both occurrence and claims-made policies are acceptable. For claims-made policies, upon termination of this Contract the same insurance requirements in Section 3 of this Exhibit will apply for a three (3) year period following such termination. A “tail” policy may be purchased as an alternative to satisfy this requirement.
5. Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of no less than A:VII**.
6. Any deductibles, aggregate limits, pending claims or lawsuits that may diminish the aggregate limits, or self-insured retention(s), must be declared to, and approved by, the City.
7. Consultant shall furnish the City with certificates of insurance and original endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this Contract. At the written request of the City, Consultant agrees to furnish a duplicate original or certified copy of each required policy including the declaration pages, conditions, provisions, endorsements, and exclusions.
8. The City, due to unforeseen risk or exhaustion, failure, or dilution of Consultant’s insurance coverage, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.
9. Consultant shall serve the City notice, in writing by certified mail, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement that concern the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage proposed or otherwise.
10. If Consultant fails to procure or maintain insurance as required by this section, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due Consultant under the contract.

11. Failure of the City to obtain such insurance shall in no way relieve Consultant from any of its responsibilities under the contract.
12. The making of progress payments to Consultant shall not be construed as relieving Consultant or its Sub-Consultants or agents of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.
13. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
14. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Consultant are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant under the Contract.

EXHIBIT E: CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700, RELEASE AND INDEMNIFICATION

The undersigned, on behalf of and as the duly certified representative of Consultant, certifies as follows:

1. Consultant is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and Consultant has complied or will comply with such provisions before commencing the performance of the work of this contract. (Cal. Labor Code §§1860, 1861.)
2. Should Consultant fail to secure Workers' Compensation coverage as required by the State of California, Consultant shall release, hold harmless, defend and indemnify the City of Elk Grove from and against any damage, liability, claim, cause of action and any other loss, including without limitation, court costs, reasonable attorney's fees and costs resulting from any failure to take and/or maintain Workers' Compensation insurance as required by law. The provisions of this Exhibit shall survive termination, suspension and/or completion of this Contract. It is further understood and agreed that this release and assumption of risk is to be binding on Consultant's successors, heirs and assigns.

CONSULTANT

By: _____

Date: _____

Name: _____

Title: _____

EXHIBIT F: REQUIRED FORMS

The forms and conditions contained in this Exhibit F are hereby incorporated into this Contract by reference. Consultant shall review, complete, and execute the following forms as applicable for the execution of this Contract and/or subsequent Task Orders issued under this Contract and as requested by City.

LAPM = Caltrans Local Assistance Procedures Manual

IOAI = Independent Office of Audits and Investigations.

1. Forms/Documentation Required for Execution of Contract
 - a. Certification of Indirect Costs and Financial Management (IOAI)
 - b. ICR Schedule with FAR References for Disallowed Costs (IOAI)
 - c. Disclosure of Lobbying Activities (LAPM Exhibit 10-Q)
 - d. Consultant Proposal DBE Commitment (LAPM Exhibit 10-O1)
 - e. Consultant Contract DBE Commitment (LAPM Exhibit 10-O2)
 - f. DBE Information - Good Faith Efforts (LAPM Exhibit 15-H) (if necessary)

2. Forms that May Be Requested by the City's Public Works Director or their authorized representative:
 - a. Final Report – Utilization of DBEs (LAPM Exhibit 17-F)
 - b. DBE Certification Status Change (LAPM Exhibit 17-O)
 - c. Indirect cost rate calculations and documentation
 - d. Copies of prior and current CPA indirect cost rate (ICR) audit reports and rate schedules, if any

*** OTHER FORMS MAY BE REQUIRED BY STATE AND FEDERAL LAW OR FUNDING REQUIREMENTS AND CONSULTANT SHALL BE REQUIRED TO FILL OUT AND SIGN THOSE FORMS IN A TIMELY MANNER AS REQUESTED.**

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

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

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

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

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

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

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

LOCAL AGENCY SECTION

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

EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS

Cost Proposal Due Date _____ PE/CE

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

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

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

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

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

Publications	Dates of Advertisement

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

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

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

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

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

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

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

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

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

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

Name of Agency/Organization	Method/Date of Contact	Results

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

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

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

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

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

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

EXHIBIT F

Sample Only - Required Cost Proposal Template To Be Determined By Agency

SAMPLE COST PROPOSAL 1

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

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Prime Consultant Subconsultant 2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total

LABOR COSTS

a) Subtotal Direct Labor Costs _____

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

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

INDIRECT COSTS

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

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

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

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

FIXED FEE

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

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

Description of Item	Quantity	Unit	Unit Cost	Total

l) **TOTAL OTHER DIRECT COSTS** _____

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

Subconsultant 1: _____

Subconsultant 2: _____

Subconsultant 3: _____

Subconsultant 4: _____

m) **TOTAL SUBCONSULTANTS' COSTS** _____

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

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

NOTES:

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

SAMPLE COST PROPOSAL 1
COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS
 (CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

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

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

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

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

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

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

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

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

NOTES:

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

SAMPLE COST PROPOSAL 1

Certification of Direct Costs:

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

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

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

Prime Consultant or Subconsultant Certifying:

Name: _____ Title *: _____

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

Email: _____ Phone Number: _____

Address: _____

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

List services the consultant is providing under the proposed contract: