Cathedral City

REQUEST FOR QUALIFICATIONS/ PROPOSALS

to provide

Professional Construction Engineering Support Services For HSIP CYCLE 11B: SIGNALIZED PEDESTRIAN CROSSING UPGRADES STATE PROJECT NO. HSIPL-5430(040) CITY PROJECT NO. C08755

Date of Issuance: October 19, 2025

RESPONSES MUST BE RECEIVED NO LATER THAN

11:00 am, October 29, 2025

DELIVER OR MAIL TO:

Engineering Department
City of Cathedral City
68-700 Avenida Lalo Guerrero
Cathedral City, CA 92234

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I. PURPOSE

The City of Cathedral City (City) is soliciting qualifications and proposals from professional consulting firms (Consultants) to provide construction engineering services, in compliance with State-funded Highway Safety Improvement Program (HSIP) Project requirements. The Project is the HSIP 11B: Signalized Pedestrian Crossing Upgrades, State Project No. HSIPL-5430(040), CIP No. C08755.

II. BACKGROUND

The California Department of Transportation (Caltrans) awarded HSIP Cycle 11 grant funding to the City, in the amount of $959,670, for the design and construction of two high intensity activated crosswalks (HAWK) at the intersections of:

- 30th Avenue and Avenida La Paz
- Cathedral Canyon Drive and Ortega Road

The Project scope includes installation of two HAWK crossings, curb bulb-outs, ADA curb ramps, LED safety lighting, high visibility crosswalks, pavement markings, advanced warning signs and flashing beacons.

The Project requires construction engineering support which includes construction management, labor compliance monitoring and enforcement, inspection, and material testing pursuant to State-funded HSIP requirements.

The plans, specifications and estimates (PS&E) provided in Attachment 1 are at the 95% design level. The PS&E does not reflect the incorporation of Southern California Edison (SCE) utility maps for power service to the proposed HAWK crossings. Final PS&E will be issued on October 10, 2025.

III. SCOPE OF SERVICES

Working on state funded Projects requires in-depth knowledge of the Caltrans Local Assistance Procedures Manual (LAPM), the Caltrans Construction Manual, and other Federal Highway Administration (FHWA) requirements. The following services will be required for this Request for Qualifications/ Proposals (RFQ/P):

<u>CONSTRUCTION MANAGEMENT</u>

1. Perform a “third” party constructability review of the Project PS&E prior to the preconstruction conference to identify potential issues needing attention prior to the start of construction.
2. Review Project permit requirements.
3. Schedule and chair a kick-off meeting with the City to discuss the proposed work plan and special concerns to be presented at the preconstruction meeting.
4. Provide a preconstruction agenda to the City for concurrence, schedule a preconstruction meeting and notify attendees. It is envisioned that the preconstruction meeting will include all interested parties, including utilities, subcontractors, etc. Conduct preconstruction meeting.

5. Provide coordination of Project activities and prepare reports and documents, as necessary, for City review and action.
6. Maintain at the Project site, on a current basis: a record copy of all contracts, drawings, specifications, addenda, change orders, and other modifications, in good order and marked to record all changes made during construction; shop drawings, product data; samples; submittal; purchases; materials; equipment; applicable handbooks; maintenance and operating manuals and instructions; other related documents and revisions which are relevant to the contract work.
7. Provide weekly status reports to the City as required.
8. Review laboratory, shop, and mill test reports of materials and equipment, and coordinate as required with the design engineer(s).
9. Prepare and send a Weekly Statement of Working Days, noting the controlling operations, to the Contractor.
10. Monitor Contractor and subcontractor compliance with State and Federal labor laws and paperwork requirements including: monitor Contractor's certified payroll; spot check payrolls for prevailing wage compliance; conduct employee interviews; maintain evidence of apprentices employed on the Project; and ensure that the Contractor has posted all required posters, notices, and wage determinations at the job site.
11. Prepare daily/weekly Resident Engineer reports listing the type of work done, controlling operation, weather conditions, important discussions/agreements with the Contractor, and any other important facts pertaining to the Project that are not specifically covered elsewhere in the contract records.
12. Administer the construction contract in conformance with the requirements set forth in the Project plans and specifications including applicable requirements from Caltrans' Standard Plans and Specifications, Local Assistance Procedures, Standard Specifications for Public Works Construction and the City of Cathedral City.
13. Receive, log, and respond to Contractor Request for Information (RFI).
14. Conduct weekly construction progress meetings with the Contractor, Subcontractors, City Staff, Design Engineer, Subconsultants, affected outside agencies, general public, business owners, other Consultants, etc. to discuss matters such as procedures, progress, problems, and scheduling. Prepare and distribute meeting minutes.
15. Review and approve Subcontracting Request forms.
16. Coordinate and monitor all inspection activities.
17. Maintain an open-door policy and meet with the general public as needed regarding street construction and make recommendations to address any concerns.
18. Receive and process all shop drawings, Project data, samples, and other submittals to the design engineer for review. Establish and implement procedures for expediting the processing and approval of submittal.
19. Coordinate submittal review with the design engineer on an as-needed basis.
20. Coordinate with the City Engineer and other City Departments.
21. Document all claims and maintain account records. Provide all necessary documentation and support to the City in settling claims.
22. Administer implementation of Project's Traffic Control Plan and perform weekly reviews for conformance to approved plan.
23. Coordinate and schedule construction surveying.
24. Coordinate testing requirements and scheduling of material testing.

25. Review and analyze the Contractor's schedule (weekly), including activity sequences and duration, schedule of submittal and schedule of delivery for products with long lead times. Work with Contractor to maintain the Project schedule to show current conditions and suggest revisions as required.
26. Recommend necessary or desirable changes in the Construction Contractor's scope of work to the City. Review and evaluate the Contractor's request for changes. Negotiate with the Contractor and submit recommendations to the City supported by field data related to any additional work. If change orders are accepted by the City, prepare change orders for signature and authorization by the City. Maintain a log of change requests.
27. Create and maintain "As-Built" Project schedule.
28. Review pay requests and provide recommendation for Contractor payments.
29. Coordinate the Transition of the Project to City Maintenance.
30. Coordinate any training sessions required for City Staff.
31. Conduct regular coordination meetings with property owners and business owners.
32. Construction Closeout

    The Consultant shall provide the following Project closeout services:

    a. Administer and coordinate final inspections.
    b. Coordinate the correction and the completion of the work.
    c. Assist the City in determining when the Project, or a designated portion thereof, is substantially complete. Prepare for the City, a summary of the status of the work of the Contractor, listing changes in the previously issued certificates of substantial completion of the work, and recommending the times within which the Contractor shall complete uncompleted items on the certificate of substantial completion of the work.
    d. Calculate the amount of final payment due to the prime Contractor.
    e. Obtain evidence of certification of all lien releases.
    f. Secure and transmit to the City, required guarantees.
    g. Issue the notice of substantial completion.
    h. Coordinate any startup requirements.
    i. Deliver all equipment manuals, special equipment, spare parts, catalogs, and other materials required by specifications.
    j. Collect all "As-Built" data from all Contractors and Consultants.
    k. Make recommendation for the release of retention.
33. Provide construction management documents and records to the City.

<u>LABOR COMPLIANCE:</u>

1. Monitor Contractor and Subcontractor compliance with State labor law and paperwork requirements including:
    - Monitor Contractor's certified payroll and supporting payroll records (statements of compliance, fringe benefit statements, deductions, apprentice registration, etc.),
    - Review (spot check) payrolls for compliance,
    - Monitor applicable State prevailing wage requirements as well as providing State prevailing wage rates for labor compliance support,
    - Conducting employee interviews,

- Maintain evidence of apprentices/trainees employed on the Project, and
- Ensure that the Contractor has posted all required posters, notices, and wage determinations at the job site.

2. Prepare and present mandatory labor compliance checklist to be presented to and acknowledged by the Contractor at the preconstruction meeting.

INSPECTION:

1. Review contract documents, plans and permits.
2. Attend field walks and kick off meetings.
3. Attend the preconstruction meeting.
4. Monitor and enforce construction noticing requirements, including but not limited to PM10 and SWPPP requirements.
5. Maintain field diary (bound workbooks) during construction, including a cumulative record of quantities constructed, daily and weekly reports, working day reports, change order documentation, photographs and other documentation. Maintain a separate field diary for change order work.
6. Monitor the Contractor's fugitive dust control plan and ensure the Contractor is using approved haul routes and they are kept clean.
7. Ensure compliance with the construction contract by continuously monitoring, evaluating, approving or rejecting the Contractor's work in accordance with the approved construction contract documents.
8. Determine that the Contractor's work is being performed in accordance with the requirements of the contract documents. Endeavor to guard the City against defects and deficiencies in the work. As appropriate, require special inspection or testing, or make recommendations to the City regarding special inspection or testing of work not in accordance with the provisions of the contract documents whether or not such work is fabricated, installed or completed.
9. Track and monitor construction costs.
10. Provide and maintain a digital photographic history of the progress of the Project. Photos will also be taken of the following:
    - Showing existing conditions prior to construction,
    - Disputed work items,
    - Work that has to be duplicated, replaced or removed,
    - Completed work, and
    - Extra Work.
11. Record the progress of the Project. Maintain a daily log containing a record of weather, Contractor and Subcontractor's work on site, Contractor and Subcontractor's equipment with hours on site and idle time, number and names of workers with hours on site, work accomplished, problems encountered, and other relevant data. Provide copies of daily logs to the City as requested. Include information on Contractor and the entire Project, showing percentages of completion. Daily Reports should be detailed enough to develop Time and Material payments for the Contractor's work in case of future disputes.
12. During the course of construction, maintain one set of plans with markings and dimensions in red ink to denote field changes or other corrections.

13. Ensure ADA compliance.
14. Maintain copies of all permits needed to construct the Project and enforce special requirements of each.

MATERIAL TESTING

1. The Consultant shall be responsible for all the tests as required by the Caltrans Standard Specifications and the Project Special Provisions.
2. The Consultant shall perform the materials testing services in accordance with the City's approved Quality Assurance Program (QAP), California Department of Transportation, Construction Manual, Chapters 3-6, "Control of Materials" and Chapter 6, "Sample Types and Frequencies." The Consultant shall provide for initial "Samples and Tests" on materials proposed for use in the Project. The Consultant shall provide for "Acceptance Tests" on materials that will be incorporated into the work. Sampling should begin as soon as material is delivered or in place. Consultant shall continue sampling as work progresses.
3. The Consultant shall conduct all testing in a Caltrans Certified Laboratory, or equivalent. All sampling and testing shall be done by personnel and laboratory with the appropriate accreditation for the testing and sampling designated to perform. Proof of the appropriate accreditation shall be submitted for approval by the City.
4. Provide a qualified technician and certified laboratory for each test as required by the City's QAP and Project Specifications. The certifications shall be provided by a nationally recognized organization.
5. The Consultant shall provide all independent assurance as may be required by the City's QAP. This may require the use of two independent laboratories and personnel.
6. Consultant shall keep records of all samples and tests in the Project files as permanent job records. Materials incorporated into the Project, represented by failing tests, must be documented in the Project files also. Test results shall cite applicable contract requirements, test and/or analytical procedures used. Provide actual results and include a statement that the item tested or analyzed conforms or fails to conform to specified requirements. Test results shall be signed by a testing laboratory representative authorized to sign certified documentation and forward to the City.
7. Testing Plan and Log shall be maintained by the Consultant. The QC Manager shall record on the "Test Plan and Log" the date the test was conducted, the date the test results were forwarded to the Engineer, remarks and acknowledgement that an accredited, or Engineer approved, testing laboratory was used. Submit a copy of the updated "Test Plan and Log" with the Contract Quality Control Report each month.
8. Rework Items list shall be maintained by the Consultant of work performed that does not comply with the Contract. The Contractor shall be responsible for including on this list, items needing rework including those identified by the Engineer.
9. Maximum density tests shall be performed at the job site unless otherwise approved by the City Engineer.
10. Acceptance test of the CIDH concrete piles shall be made by the Consultant. Acceptance tests will evaluate the homogeneity of the placed concrete. Test shall include gamma-gamma logging. Test may also include cross-hole sonic logging and other means of inspection selected by the engineer.

11. Consultant shall keep records of all samples and tests in the Project files as permanent job records. Materials incorporated into the Project, represented by failing tests, shall also be documented in the Project files.
12. Consultant shall use the most economical mode of transportation available consistent with the time element involved.
13. Project Certification – Send a materials certification memorandum to the City upon completion of the Project. File a copy of the memorandum in the job files. Note all non-conforming materials on the memorandum. This includes materials accepted at reduced pay factors.
14. A California licensed engineer shall sign the materials certification memorandum.
15. Any Non-Compliance results of materials shall be reported to the City's Project Manager and City Project Inspector within twenty-four (24) hours from the time of sampling.

The selected company will be responsible for providing construction engineering support to ensure delivery of the Projects remain consistent with HSIP Project schedules and programming guidelines, communicating with Caltrans on Project deliverables and other administrative functions associated with delivering State funded Local Assistance Projects.

IV. SCHEDULE

	DEADLINES:
Notice of RFQ/P Issued	October 19, 2025
Proposal Submission Deadline	October 29, 2025, at 11:00 am
Proposal Review/Evaluation	Week of November 3, 2025
Negotiation of Contract (if needed)	Week of November 10, 2025
Award of contract	December 10, 2025

V. QUESTIONS

All questions regarding this RFQ/P shall be submitted in writing to Andrew Lee, via email at alee@cathedralcity.gov. The date and time when questions must be submitted are shown in "Section IV – Schedule" of this RFQ/P. Questions with their answers will be sent directly to the companies participating in this informal RFQ/P process.

VI. SUBMITTAL PROCEDURES

Submittals shall comply with all conditions, requirements and specifications contained herein, with any departure constituting sufficient cause for rejection of the proposal at the City's sole discretion. The submittal shall contain the name of this RFQ/P and respondents shall provide four (4) copies of the Work Proposal and one (1) copy of the Cost Proposal.

Proposals sent by fax or email will not be accepted. All proposal submittals shall be mailed or delivered and received by the City no later than October 29, 2025, at 11:00 am PDT, addressed as follows:

Proposal For Professional Construction Engineering Support
for HSIP Cycle 11B: Signalized Pedestrian Crossing Upgrades
State Project No. HSIPL-5430(040), CIP No. 08755

Engineering Department
City of Cathedral City
68700 Avenida Lalo Guerrero
Cathedral City, CA 92234

VII. SUBMITTAL FORMAT

All respondents must submit qualifications according to the specifications set forth below. Submittals must be relevant to the specific work required and should not exceed 14 pages of information, single sided, 8.5" x 11" sized paper, with 10-point Arial font. The page limit includes resumes and appendices. The page limit does not include the front and back covers, tabs to separate sections or the table of contents.

EACH SUBMITTAL MUST INCLUDE TWO (2) SEPARATELY SEALED ENVELOPES:

A. **WORK PROPOSAL** (ENVELOPE 1), clearly marked "Work Proposal", shall include:

i. Cover Letter
   a. Provide the name and contact information for the Project Manager of the company submitting the proposal. Include a brief description of the company. This letter must
   bear the signature of the person having proper authority to make the proposal for the company.
   b. There shall be one person from your company identified in your proposal who will be the Project Manager for the City. This person will be responsible for the services
   listed in "Section III - Scope of Services" of this RFQ/P.
   c. Any anticipated subconsultant(s) shall be identified. All subconsultant contracts over $25,000 must contain all required provisions of the prime contract.

ii. Statement of Qualifications
   a. A listing of the company's Project personnel including relevant experience, resumes and other information relevant to the proposal, including company's ability to conform to applicable state and federal procedures to ensure Project funding.
   b. Address the company's experience with similar work. Include names and current phone numbers of reference for any listed Projects.
   c. Address Project understanding and approach.

iii. Scope of Work
   a. Provide a description of the work objectives by task, sub-task, and deliverables that are anticipated to be provided.

B. **COST PROPOSAL** (ENVELOPE 2), clearly marked "Cost Proposal", shall include:

i. Professional Service Rate Sheets

a. Include a detailed breakdown of all personnel by classification, hours, and hourly billing rates; see Attachment 2 for the preferred format. The rate sheets shall include an hourly breakdown, direct salary costs, fringe benefits, indirect costs, and net fee. Any proposed travel and/or mark-ups on outside services shall also be noted. The rate sheets shall note if there are any changes, or not, to the proposed rate(s) over time.

ii. Consultant Certification of Contract Costs and Financial Management System

a. Include an executed "Consultant Certification of Contract Costs and Financial Management System" for prime and all subconsultants. A copy of "Consultant Certification of Contract Costs and Financial Management System" is provided in Attachment 3. Due to state/federal contract provisions, no contract will be awarded to a Consultant without an adequate financial management system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31. Selected Consultant will be paid according to specified rates of compensation for the work performed.

VIII. AGREEMENT FOR PROFESSIONAL SERVICES

The Cathedral City Agreement for Professional Services (Attachment 4) is included for review and comment. The company's submission of a proposal indicated affirmative compliance of such terms, unless the proposal indicates that compliance is not possible. Proposed revisions should be addressed in the cover letter. The City reserves the right to make any revisions to the proposed professional services agreement.

IX. GENERAL ADMINISTRATIVE INFORMATION

Each respondent understands and agrees that the City, its departments, their officers, employees or agents is not responsible for:

a. Any costs incurred by a respondent in the preparation, delivery or presentation of a proposal.
b. Any costs incurred by a respondent in meeting the criteria as a result of making or submitting a proposal or subsequently in entering into a formal agreement with the City.
c. Any errors, inaccuracies or misstatements related to the information or data supplied to any Consultant by the City. The use of such information or data provided by the City, its officers, employees or agents is intended to be used at the sole discretion and risk of the company in the preparation of a proposal pursuant to this RFQ/P only.

The selected company shall comply with all applicable State laws pertaining to scope of work. All proposals submitted in response to this RFQ/P shall become the property of Cathedral City and will not be returned and such proposals, after the contract is awarded, are subject to the California Public Records Act.

This contract will be reimbursed with State Funded HSIP Cycle 11 Funds. As such, the selected Consultant must comply with HSIP Project schedules and programming guidelines, communicating with Caltrans on Project deliverables and other administrative functions associated with delivering State funded Local Assistance Projects.

This contract is subject to audit or review by Caltrans' Independent Office of Audits and Investigations (IOAI), other state audit organizations, or the federal government. Depending on the final negotiated contract value, the City may request, **and the Consultant shall provide**, documentation justifying the audited indirect cost rates being certified. This includes but is not limited to FAR compliant indirect cost rate schedules, CPA audited indirect cost rate report, prior year indirect cost rate schedule, AASHTO Internal Control Questionnaire Appendix B, post-closing trial balance, vacation/sick policy, bonus policy, executive compensation analysis, and prevailing wage policy.

X. SUBMITTAL DUE DATE

The submittal package must be received on/or prior to the submittal date and time specified in "Section IV - Schedule" of this RFQ/P. Companies mailing a proposal must allow sufficient delivery time to ensure timely receipt of the proposal by the date and time specified. Submittals arriving after the deadline will not be considered.

XI. SELECTION PROCESS

After the submission deadline, each proposal will be reviewed in a timely manner by the City Engineer and a selection committee. The committee will rank the Consultants for contract negotiations based upon the materials submitted within the Work Proposal. A copy of the Evaluation Criteria is provided in Attachment 5. Notwithstanding, the City will be the sole and exclusive judge of quality and compliance with proposal specifications in any of the matters pertaining to this RFQ/P. The City reserves the right to award the contract(s) in any manner it deems to be in the best interest of the City and make the selection based on its sole discretion, including negotiating with one or more of the proposers for the same service.

The City will open contract negotiations with the top-ranked company. The successful company will be expected to enter into the Agreement for Professional Services with the City. Due to state and federal regulations, Caltrans may select the successful company for an audit or review based on a risk-based approach. Accordingly, interested proposers must be familiar with Caltrans audit procedures including contract audits, incurred cost audits, financial management system reviews, ICR audits, and risk assessments.

Should negotiations with the top-ranked company dissolve; the City will open the cost proposal and begin contract negotiations with the second ranked company, and so forth until an agreement is reached.

The City reserves the right to contract with multiple companies or reject all proposals at its sole discretion. Consultants are encouraged to keep their proposals brief and relevant to the specific work required.

XII. ACCEPTANCE/REJECTION/MODIFICATION

Cathedral City reserves the right to accept, reject, modify or cancel in whole or in part, this RFQ/P. The City reserves the right to accept or reject any and all proposals, negotiate modifications to proposals that it deems acceptable, to request and consider additional information from any proposer and to waive minor irregularities and technical defects in this proposal process. The City reserves the right to seek new proposals when it determines that it is in the best interest of the City to do so.

XIII. AUTHORITY TO WITHDRAW

Cathedral City reserves the right to withdraw this RFQ/P without prior notice. The City makes no representation that any agreement will be awarded to any company as a result of having responded to this request. All proposals submitted in response to this RFQ/P shall become the property of the City and will not be returned.

XIV. AWARD OF CONTRACT

Based on the Selection Committee's evaluation of proposals, a recommendation will be submitted to the City Council for consideration of award. An award of a contract occurs when the contract is approved by the City Council. Selection of a Consultant with whom the City enters into contract negotiations with or a recommendation of an award by the Selection Committee or any other party does not constitute an award of a contract.

The contract shall be in accordance with the attached Agreement for Professional Services and shall be based upon the specified rates of compensation to provide the agreed upon services.

The anticipated length of the contract is up to eighteen months, from November 12, 2025, through May 12, 2027, unless terminated sooner by the City.

XV. ATTACHMENTS

Attachment 1. Plans, Specifications and Estimate
Attachment 2. Sample Cost Proposal
Attachment 3. Consultant Certification
Attachment 4. Cathedral City Agreement for Professional Services
Attachment 5. Evaluation Sheet

ATTACHMENT 1

Plans, Specifications and Estimate

Link to Plans, Specifications and Estimates: HSIP 11B

ATTACHMENT 2

Sample Cost Proposal

Reset Form

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
				$ 0.00
				$ 0.00
				$ 0.00
				$ 0.00

LABOR COSTS

a) Subtotal Direct Labor Costs $ 0.00

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

c) **TOTAL DIRECT LABOR COSTS** [(a) + (b)] $ 0.00

INDIRECT COSTS

d) Fringe Benefits (Rate: 0.00%) e) Total Fringe Benefits [(c) x (d)] $ 0.00

f) Overhead (Rate: 0.00%) g) Overhead [(c) x (f)] $ 0.00

h) General and Administrative (Rate: 0.00%) i) Gen & Admin [(c) x (h)] $ 0.00

j) **TOTAL INDIRECT COSTS** [(e) + (g) + (i)] $ 0.00

FIXED FEE k) **TOTAL FIXED FEE** [(c) + (j)] x fixed fee 0.00%] $ 0.00

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

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs				$ 0.00
Equipment Rental and Supplies				$ 0.00
Permit Fees				$ 0.00
Plan Sheets				$ 0.00
Test				$ 0.00

l) **TOTAL OTHER DIRECT COSTS** $ 0.00

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

Subconsultant 1: _____

Subconsultant 2: _____

Subconsultant 3: _____

Subconsultant 4: _____

m) **TOTAL SUBCONSULTANTS' COSTS** $ 0.00

n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS** [(l)+(m)] $ 0.00

TOTAL COST [(c) + (j) + (k) + (n)] $ 0.00

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	400%	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 *: _____ $ 0.00

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

Email: _____ Phone Number: _____

Address:_____

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

List services the consultant is providing under the proposed contract:

ATTACHMENT 3

Consultant Certification

Inspector General

California Department of Transportation

Certification of Indirect Costs and Financial Management System

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

Consultant's Full Legal Name: _____

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

Indirect Cost Rate (ICR):

Combined Rate: _____ Or

Home Office Rate: _____ and Field Office Rate (if applicable): _____

Facilities Capital Cost of Money (if applicable): _____

Fiscal Period:* _____

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

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

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

I am providing the required and applicable documents as instructed on the Financial Document Review Request form.

Financial Management System:

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

Our financial management system has the following attributes:

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

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

Cost Reimbursements on Contracts:

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

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

All A&E Contract Information:

- Total participation amount _____ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is _____
- Years of consultant's experience with 48 CFR Part 31 is _____
- Identify the type of audits listed below that the consultant has had performed (if applicable):

Cognizant ICR Audit ☐ Local Govt ICR Audit ☐ Caltrans ICR Audit ☐

CPA ICR Audit ☐ Federal Govt ICR Audit ☐

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

Name:** _____ Title**: _____

Signature: _____ Date: _____

Phone**: _____ Email**: _____

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

Note: Both prime and subconsultants as parties of a contract must complete their own forms. Caltrans will not process local agency's invoices until a complete form is accepted and approved by the Independent Office of Audits and Investigations.

ATTACHMENT 4

Cathedral City Agreement for Professional Services

AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
THE CITY OF CATHEDRAL CITY, CALIFORNIA
AND
_____

This Agreement for Professional Services ("Agreement") is entered into as of _____ ("Effective Date") by and between the City of Cathedral City, a municipal corporation ("City") and _____, a _____ ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by. request for qualifications/ proposals the performance of the engineering support services defined and described particularly in Section 2 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Section 2 of this Agreement, was selected by the City to perform those services.

C. Consultant was selected by the City on the basis of Consultant's demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services required.

D. Pursuant to the City of Cathedral City's Municipal Code, City has authority to enter into this Professional Services Agreement and the City Manager has authority to execute this Agreement.

E. The Parties desire to formalize the selection of Professional for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

Subject to the provisions of Section 20 "Termination of Agreement" of this Agreement, the Term of this Agreement is for three (3) years commencing on the

Effective Date, with the option to extend the AGREEMENT for an additional two (2) years. The option for extension will be provided in one (1) year increments commencing the Effective Date.

SECTION 2. SCOPE OF SERVICES & SCHEDULE OF PERFORMANCE.

(a) Scope of Services. Consultant agrees to perform the services set forth in Exhibit "A" "Scope of Services" (hereinafter, the "Services") and made a part of this Agreement by this reference.

(b) Schedule of Performance. The Services shall be completed pursuant to the schedule specified in Exhibit "A." Should the Services not be completed pursuant to that schedule, the Consultant shall be deemed to be in Default of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Consultant to continue performing the Services.

SECTION 3. ADDITIONAL SERVICES.

Consultant shall not be compensated for any work rendered in connection with its performance of this Agreement that are in addition to or outside of the Services unless such additional services are authorized in advance and in writing in accordance with Section 26 "Administration and Implementation" or Section 28 "Amendment" of this Agreement. If and when such additional work is authorized, such additional work shall be deemed to be part of the Services.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

(a) Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in Exhibit "B" "Compensation" and made a part of this Agreement by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed _____ dollars ($_____), unless additional compensation is approved in writing in accordance with Section 26 "Administration and Implementation" or Section 28 "Amendment" of this Agreement.

(b) Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and subcontractor contracts. Subcontractor charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. If the compensation set forth in subsection (a) and Exhibit "B" include payment of labor on an hourly basis (as opposed to labor and materials being paid as a lump sum), the labor category in each invoice shall include detailed descriptions of task performed and the amount of time incurred for or allocated to that task. City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses

are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

(c) Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice.

(d) Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

(e) Final invoice must contain the final cost and all credits due City that include any equipment purchased under the provisions of Exhibit D, Article XI "Equipment Purchase". The final invoice must be submitted within sixty (60) calendar days after completion of Consultant's work unless a later date is approved by the City. Invoices shall be mailed to the City in accordance with Section 24 "Notices".

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept the Consultant's work within sixty (60) days after being submitted to City. The city shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section 16 "Indemnification" and Section 17 "Insurance."

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing the Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing the Services pursuant to this Agreement, Consultant's guarantees and warranties in Section 9 "Standard of Performance;

Familiarity With Work" of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 7. CONSULTANT'S BOOKS AND RECORDS.

(a) Consultant shall maintain any and all documents and records demonstrating or relating to Consultant's performance of the Services. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant pursuant to this Agreement. Any and all such documents or records shall be maintained for three (3) years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Consultant's address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Consultant's business, City may, by written request, require that custody of such documents or records be given to the City. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

SECTION 8. INDEPENDENT CONTRACTOR.

(a) Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

(b) The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's

officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither Consultant , nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE; FAMILIARITY WITH WORK.

(a) Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to the Services required of Consultant under this Agreement, and shall use such skill, prudence, and diligence as other members of Consultant's profession commonly possess and exercise. In addition to the general standards of performance set forth this section, additional specific standards of performance and performance criteria may be set forth in Exhibit "A" "Scope of Work" that shall also be applicable to Consultant's work under this Agreement. Where there is a conflict between a general and a specific standard of performance or performance criteria, the specific standard or criteria shall prevail over the general.

(b) Consultant warrants that (1) it has thoroughly investigated and considered the work to be performed, (2) it has investigated the issues, regarding the scope of services to be provided, (3) it has carefully considered how the work should be performed, and (4) it fully understands the facilities, difficulties and restrictions attending performance of the work under this Agreement.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the Services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 11. PREVAILING WAGE LAWS.

It is the understanding of City and Consultant that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor

Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, “construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

SECTION 12. NONDISCRIMINATION.

Consultant shall not discriminate, in any way, in the employment of persons to perform the Services in violation of any federal or state law prohibiting discrimination in employment, including based on the 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, of any person, except as provided under California Government Code section 12940.

SECTION 13. 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 the Services, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

SECTION 14. CONFLICTS OF INTEREST.

(a) Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant’s performance of the Services. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

(b) City may determine that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests. If such a determination is made, Consultant shall file the subject Form 700 with the City Clerk’s Office pursuant to the written instructions provided by the Office of the City Clerk within ten (10) days of the request.

(c) City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is unaware of

any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(d) City understands and acknowledges that Consultant will, perform non-related services for other governmental agencies and private parties following the completion of the Services under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

SECTION 15. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant , its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

SECTION 16. INDEMNIFICATION.

(a) Indemnification by Consultant. As provided under Civil Code Section 2782.8, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any

and all claims. actions and proceedings (whether at law or equity, administrative or judicial), demands, orders, judgments, losses, liabilities, damages, costs and expenses, including attorney's fees and costs, (collectively "Claims") to the extent same arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or sub-Consultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement. In the event Claims are found by the trier of fact to have been caused by the joint or concurrent negligence of the City, its contractors and other professionals, and Consultant, damages and expenses from both indemnity and duty to defend obligations shall be borne by each party in proportion to its negligence. Notwithstanding the foregoing, in the event one or more defendants are unable to pay its share of defense costs due to bankruptcy or dissolution of the business, Consultant shall meet and confer with other parties regarding unpaid defense costs. The provisions of this section pertaining to Consultant's duty to defend shall not apply if there is a project-specific general liability policy of insurance that insures all project participants for general liability exposure on a primary basis and also covers all professionals involved with the project for their legal liability arising out of their professional services on a primary basis.

(b) Indemnification from Subcontractors. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every sub-Consultant, subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement naming the Indemnified Parties as additional indemnitees. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

(c) City's Negligence. The provisions of this section do not apply to Claims occurring as a result of City's sole negligence. The provisions of this section shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officials, employees and agents.

SECTION 17. INSURANCE.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "C" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Consultant agrees to provide City with copies of required policies upon request.

SECTION 18. ASSIGNMENT.

The expertise and experience of Consultant are material considerations for this Agreement. City has an interest in the qualifications and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including termination of this Agreement pursuant to Section 20 "Termination of Agreement." City acknowledges, however, that Consultant, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

SECTION 19. CONTINUITY OF PERSONNEL.

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the Services. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the Services prior to and during any such performance.

SECTION 20. TERMINATION OF AGREEMENT.

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.

(b) Consultant may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either Consultant or City, all property belonging exclusively to City which is in Consultant's possession shall be returned to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in Section 4 "Compensation and Method of Payment" of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 "Compensation and Method of Payment" of this Agreement.

SECTION 21. DEFAULT.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any

work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under Section 20 "Termination of Agreement." Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

SECTION 22. EXCUSABLE DELAYS.

Consultant shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Consultant. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 23. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the Services shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the Services to be performed under this Agreement.

SECTION 24. NOTICES.

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To City:
City of Cathedral City
Attn: City Manager
68-700 Avenida Lalo Guerrero
Cathedral City, CA 92234

To Consultant:
_____
_____
_____
_____

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 25. AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Consultant to the performance of its obligations hereunder.

SECTION 26. ADMINISTRATION AND IMPLEMENTATION.

This Agreement shall be administered and executed by the City Manager or his or her designated representative. The City Manager shall have the authority to issue interpretations and to make amendments to this Agreement, including amendments that commit additional funds, consistent with Section 28 "Amendment" and the City Manager's contracting authority under the Cathedral City Municipal Code.

SECTION 27. BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

SECTION 28. AMENDMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City. The City Manager shall have the authority to approve any amendment to this Agreement if the total compensation under this Agreement, as amended, would not exceed the City Manager's contracting authority under the Cathedral City Municipal Code. All other amendments shall be approved by the City Council. The Parties agree that the requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 29. WAIVER.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 30. LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Riverside, California. In the event

of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

SECTION 31. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 32. ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid and binding.

SECTION 33. SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

SECTION 34. ELECTRONIC SIGNATURE.

The Parties agree that, in accordance with the City's Electronic Signature Use Policy, adopted on August 10, 2023, and as amended thereafter, the Parties may use electronic signatures to execute this Agreement. Any use of electronic signatures to execute this Agreement shall comply with the City's Electronic Signature Use Policy, and such signatures shall have the same force and effect as if this Agreement were executed by hand. Contractor acknowledges that it has had an opportunity to request and review the City's Electronic Signature Use Policy, and Contractor agrees to comply with the Electronic Signature Use Policy. Contractor agrees to indemnify, defend, and hold the City harmless from any claim, damage, or liability associated with transmitting an electronic signature or an electronically signed record by electronic transmission.

SECTION 35. CONFLICTING TERMS.

Except as otherwise stated herein, if the terms of this Agreement conflict with the terms of any Exhibit hereto, or with the terms of any document incorporated by reference into this Agreement, the terms of this Agreement shall control.

SECTION 36. [STATE] [FEDERAL] FUNDS.

In the event the Services are funded either in whole or in part by a [state] [federal] grant, Consultant shall comply with the requirements of Exhibit "D" "[State] [Federal] Funds."

SECTION 37. SAFETY.

A. Consultant shall comply with OSHA regulations applicable to Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by City Safety Officer and other City representatives. Consultant personnel shall wear hard hats and safety vests at all times while working on the construction project site.

B. Pursuant to the authority contained in Vehicle Code §591, City has determined that such areas are within the limits of the project and are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

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

D. Consultant must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first-above written.

CITY OF CATHEDRAL CITY

_____
Charles P. McClendon
City Manager

ATTEST:

_____
Tracey R. Hermosillo, CMC
City Clerk

APPROVED AS TO FORM

_____
Eric S. Vail
City Attorney

[CONSULTANT NAME]

_____
By:_____
Its:_____

_____
By:_____
Its:_____

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)

On _____, 2025 _____,
before me, _____,
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")

personally appeared _____,
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alternation of the document or fraudulent reattachment of this form to an unintended document.

CAPACIT(IES) CLAIMED BY SIGNER(S)

Signer's Name: _____

¨ Individual
¨ Corporate Officer

_____
Title(s)

¨ Partner(s) ¨ Limited ¨ General
¨ Attorney-In-Fact
¨ Trustee(s)
¨ Guardian/Conservator
¨ Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number Of Pages

_____
Date Of Document

_____
Signer(s) Other Than Named Above

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

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who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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CAPACIT(IES) CLAIMED BY SIGNER(S)

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¨ Corporate Officer

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Title(s)

¨ Partner(s) ¨ Limited ¨ General
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¨ Trustee(s)
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¨ Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number Of Pages

_____
Date Of Document

_____
Signer(s) Other Than Named Above

EXHIBIT "A"
SCOPE OF SERVICES

EXHIBIT "B"
COMPENSATION

EXHIBIT "C"
INSURANCE

A. Insurance Coverages. Service Provider shall provide and maintain insurance, acceptable to the City, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services by Service Provider, its agents, representatives or employees. Service Provider shall procure and maintain the following scope and limits of insurance:

Only the following "marked" requirements are applicable:

__X__ Commercial General Liability (CGL): Insurance written on an occurrence basis to protect Service Provider and City against liability or claims of liability which may arise out of this Agreement in the amount of one million dollars ($1,000,000) per occurrence and subject to an annual aggregate of two million dollars ($2,000,000). Coverage shall be at least as broad as Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. additional insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

__X__ Vehicle Liability Insurance: Vehicle liability insurance in an amount not less than $1,000,000 for injuries, including accidental death, to any one person, and subject to the same minimum for each person, in an amount not less than one million dollars ($1,000,000) for each accident, and property damage insurance in an amount of not less than one million dollars ($1,000,000). A combined single limit policy with aggregate limits in an amount of not less than $2,000,000 shall be considered equivalent to the said required minimum limits. Coverage shall be at least as broad as Insurance Services Office form number CA 0001 covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the approval of the City.

__X__ Workers' Compensation Insurance: Workers' Compensation insurance that includes a minimum of one million dollars ($1,000,000) of employers' liability coverage. Service Provider shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives. In the event a claim under the provisions of the California Workers' Compensation Act is filed against City by a bona fide employee of Service Provider participating under this Agreement, Service Provider is to defend and indemnify the City from such claim.

__X__ Professional Liability Insurance: Professional liability insurance appropriate to the Service Provider's profession in an amount not less than one million dollars

$1,000,000 per occurrence. This coverage may be written on a “claims made” basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to Services performed under this Agreement. The insurance must be maintained for at least three (3) consecutive years following the completion of Service Provider’s services or the termination of this Agreement. During this additional three (3) year period, Service Provider shall annually and upon request of the City submit written evidence of this continuous coverage.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

1. All Coverages.

a. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either Party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to City.

b. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

2. Commercial General Liability and Automobile Liability Coverages.

a. City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Service Provider performs; products and completed operations of Service Provider; premises owned, occupied or used by Service Provider; or automobiles owned, leased, hired or borrowed by Service Provider. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.

b. Service Provider’s insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Service Provider’s insurance.

c. Service Provider’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

d. Any failure to comply with the reporting or other provisions of the insurance policies, including breaches of warranties, shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

e. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees or agents.

3. Workers' Compensation Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Service Provider.

C. Other Requirements. Service Provider agrees to deposit with City, at or before the effective date of this Agreement, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City may require that Service Provider furnish City with copies of original endorsements effecting coverage required by this Exhibit "C". The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. Service Provider shall furnish certificates and endorsements from each sub-contractor identical to those Service Provider provides.

2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers, or the Service Provider shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit Service Provider's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.

EXHIBIT "D"
STATE FUNDING PROVISIONS

[Note: Italic text in brackets throughout the articles is intended for instructional purposes only. Remove after modifying each section on an individual contract basis.]

"As used throughout the Exhibit "D", LOCAL AGENCY shall mean the City of Cathedral City.

ARTICLE I INTRODUCTION

See page 1 of the City's Professional Services Agreement.

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

[Choose either Option 1 or Option 2]

[Option 1 - Use paragraphs A & B below for standard AGREEMENTs]

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

B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

[*Option 2 - Use paragraphs A & B below for on-call AGREEMENTs]*

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

B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator or Project Coordinator, as needed, to discuss progress on the project(s).

ARTICLE III STATEMENT OF WORK

See Section 2 "Scope of Services & Schedules of Performance) in the City's Professional Services Agreement.

ARTICLE IV PERFORMANCE PERIOD

[*A time must be set for beginning and ending the work under the AGREEMENT. The time allowed for performing the work is specified; it should be reasonable for the kind and amount of services contemplated; and it is written into the AGREEMENT. If it is desirable that Critical Path Method (CPM) networks, or other types of schedules be prepared by CONSULTANT, they should be identified and incorporated into the AGREEMENT.*]

A. This AGREEMENT shall go into effect on (DATE), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on (DATE), unless extended by AGREEMENT amendment.

B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

[*Use paragraph C below in addition to paragraphs A & B above for on-call AGREEMENTs. On-call AGREEMENTs shall be 5 years maximum.]*

C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this AGREEMENT, the terms of the AGREEMENT shall be extended by AGREEMENT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only. The maximum term shall not exceed five (5) years.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

The requirements of this article are addressed in Section 4, "Compensation and Method of Payment", of the City's Professional Services Agreement.

ARTICLE VI TERMINATION

A. The AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary

suspension may be issued concurrent with the notice of termination.

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

D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

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

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

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

ARTICLE VIII RETENTION OF RECORD/AUDIT

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT and records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal

funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.

B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.

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

E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work

Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

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

   Accepted rates will be as follows:

   a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.

   b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.

   c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

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

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

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

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

ARTICLE X SUBCONTRACTING

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

B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT’s approved Cost Proposal.

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

D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.

E. Any substitution of Subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.

F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than

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

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

G. Prompt Payment of Withheld Funds to Subconsultants

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

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

A. Prior authorization in writing by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars ($5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars ($5,000), with prior authorization by LOCAL AGENCY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of

proposal must be adequately justified.

C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:

1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars ($5,000) or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.

2. Regulation 2 CFR 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars ($5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.

B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (https://dot.ca.gov/programs/construction/labor-compliance). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or

one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

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

D. Payroll Records

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

    a. The information contained in the payroll record is true and correct.
    b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.

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

    a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
    b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
    c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by

both email and regular mail on the business day following receipt of the request.

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

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

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

6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.

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

F. Penalty

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

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

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

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

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

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

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

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

any amounts due pursuant to Labor Code §1813.

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

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

G. Hours of Labor

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

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars ($30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.

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

Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST

A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project which will follow.

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

C. The CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.

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

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING – NOT USED

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

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

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

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

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

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

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

G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the

United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

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

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

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

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

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

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

   3. Does not have a proposed debarment pending; and

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

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

C. Exceptions to the Federal Government excluded parties (https://sam.gov/content/home) maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION – NOT USED

ARTICLE XIX INSURANCE

The requirements of this article are addressed in Section 17, "Insurance," and Exhibit "C" of the City's Professional Services Agreement.

ARTICLE XX FUNDING REQUIREMENTS

A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.

B. This AGREEMENT is valid and enforceable only if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.

C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.

D. LOCAL AGENCY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.

B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY's Contract Administrator.

C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XXII CONTINGENT FEE

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

ARTICLE XXIII DISPUTES

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

[*Choose either Option 1 or Option 2*]

[*Option 1 - Use paragraphs A through C below for all AGREEMENTs without PS&E submittal*]

A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of City Manager and City Engineer, who may consider written or verbal information submitted by CONSULTANT.

B. Not later than thirty (30) calendar days after completion of all work under the AGREEMENT, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

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

[Option 2 - Replace Paragraph B, above, with the following for AGREEMENTs requiring the submission of PS&E]

B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

ARTICLE XXIV INSPECTION OF WORK

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

ARTICLE XXV SAFETY

The requirements of this article are addressed in Section 37, “Safety,” of the City’s Professional Services Agreement.

ARTICLE XXVI OWNERSHIP OF DATA

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

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

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

D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal- aid contracts).

E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY’s CONSTRUCTION

CONTRACTOR

A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.

C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.

B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.

D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.

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

[*For PS&E contracts add paragraph F, below, to paragraphs A through E, above*]

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

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE XXX EVALUATION OF CONSULTANT

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

ARTICLE XXXI PROMPT PAYMENT

A. PROMPT PAYMENT FROM LOCAL AGENCY TO CONSULTANT

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

(1) The LOCAL AGENCY shall review each payment request as soon as feasible after receipt to verify it is a proper payment request.

(2) The LOCAL AGENCY must return any payment request deemed improper by the LOCAL AGENCY to the CONSULTANT as soon as feasible, but not later

than seven (7) days, after receipt. A request returned pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request.

ARTICLE XXXII TITLE VI ASSURANCES – NOT USED

ARTICLE XXXIII NOTIFICATION

The requirements of this article are addressed in Section 24. “Notices” of the City’s Professional Services Agreement.

ARTICLE XXXIV CONTRACT – NOT USED

ARTICLE XXXV SIGNATURES – NOT USED

ATTACHMENT 5

Evaluation Sheet

ATTACHMENT 5

PROPOSAL EVALUATION

Evaluation Process

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

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

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

Consultants invited to interviews will be required to submit cost proposals in sealed envelopes during the interview. Upon completion of the evaluation and selection process, only the cost proposal from the most qualified consultant will be opened to begin cost negotiations. All unopened cost proposals will be returned at the conclusion of procurement process. Upon acceptance of a cost proposal and successful contract negotiations, staff will recommend a contract be awarded.

Evaluation Criteria

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

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

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

No.	Written Evaluation Criteria	Weight
1	Completeness of Response	Pass/Fail
2	Qualifications & Experience	20
3	Organization & Approach	15
4	Scope of Services to be Provided	15
5	Schedule of Work	10
6	Conflict of Interest Statement	Pass/Fail
7	Local Presence	5
8	References	10
8	**Subtotal**:	**75**

No.	Interview Evaluation Criteria	Weight
9	Presentation by team	10
10	Q&A Response to panel questions	15
	Subtotal:	**25**
	Total:	100

1. Completeness of Response (Pass/Fail)

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

2. Qualifications & Experience (20 points)

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

3. Organization & Approach (15 points)

    a. Describes familiarity of project and demonstrates understanding of work completed to date and project objectives moving forward
    b. Roles and Organization of Proposed Team
        i. Proposes adequate and appropriate disciplines of project team.
        ii. Some or all of team members have previously worked together on similar project(s).
        iii. Overall organization of the team is relevant to City needs.

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

4. Scope of Services to be Provided (15 points)

a. Detailed Scope of Services to be Provided
    i. Proposed scope of services is appropriate for all phases of the work.
    ii. Scope addresses all known project needs and appears achievable in the timeframes set forth in the project schedule.
b. Project Deliverables
    i. Deliverables are appropriate to schedule and scope set forth in above requirements.
c. Cost Control and Budgeting Methodology
    i. Proposer has a system or process for managing cost and budget.
    ii. Evidence of successful budget management for a similar project.

5. Schedule of Work (10 points)

a. Schedule shows completion of the work within or preferably prior to the City overall time limits as specified in Appendix B.
b. The schedule serves as a project timeline, stating all major milestones and required submittals for project management and Federal-Aid compliance.
c. The schedule addresses all knowable phases of the project, in accordance with the general requirements of this RFP.

6. Conflict of Interest Statement (Pass/Fail)

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

7. Local Presence (5 points)

a. A statement addressing firm's ability to establish an office within the County or surrounding area.

8. References (10 points)

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

9. Presentation by Team (10 points)

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

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

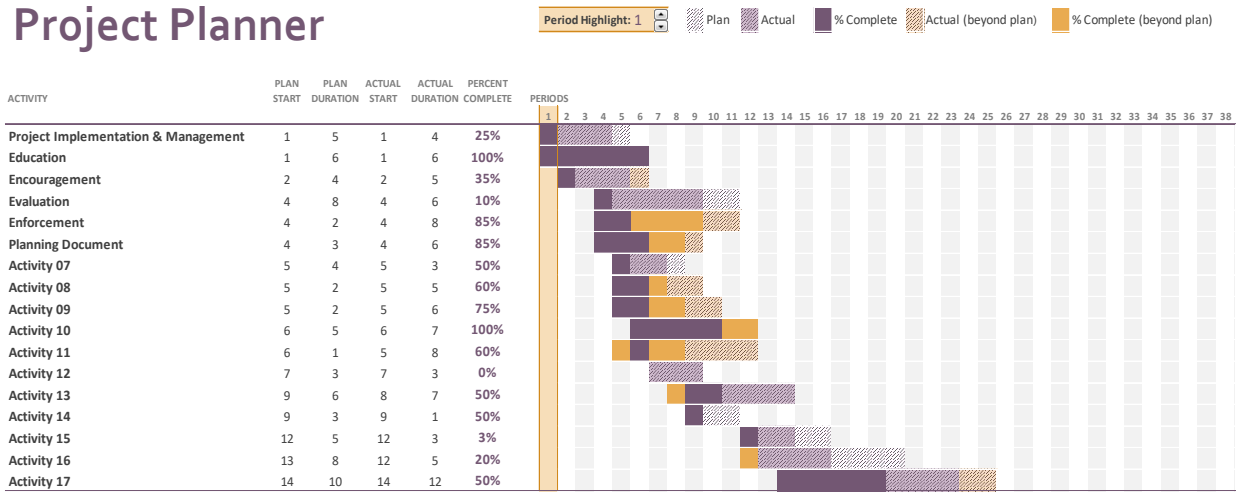
    a. Proposer provides responses to various interview panel questions.

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

No.	Evaluation Criteria	Rating (0-5)	Weight	Score (Rating * Weight)
1	Completeness of Response	N/A	Pass/Fail	Pass/Fail
2	Qualifications & Experience		20	
3	Organization & Approach		15	
4	Scope of Services to be Provided		15	
5	Schedule of Work		10	
6	Conflict of Interest Statement	N/A	Pass/Fail	Pass/Fail
7	Local Presence		5	
8	References		10	
Total:			100	

RFP & PROJECT SCHEDULE

Project Schedule – A Gantt chart should be used for evaluations to compare project deliverables, cost, and time frames and can be done in Excel.



ACTIVITY	PLAN START	PLAN DURATION	ACTUAL START	ACTUAL DURATION	PERCENT COMPLETE
Project Implementation & Management	1	5	1	4	25%
Education	1	6	1	6	100%
Encouragement	2	4	2	5	35%
Evaluation	4	8	4	6	10%
Enforcement	4	2	4	8	85%
Planning Document	4	3	4	6	85%
Activity 07	5	4	5	3	50%
Activity 08	5	2	5	5	60%
Activity 09	5	2	5	6	75%
Activity 10	6	5	6	7	100%
Activity 11	6	1	5	8	60%
Activity 12	7	3	7	3	0%
Activity 13	9	6	8	7	50%
Activity 14	9	3	9	1	50%
Activity 15	12	5	12	3	3%
Activity 16	13	8	12	5	20%
Activity 17	14	10	14	12	50%