



**Request for Proposals for a  
Imperial County EV Charging Station Passenger Vehicle  
Feasibility Study**

**Federal Aid Project 6471(024)**

Requested by: David Aguirre, Executive Director  
Imperial County Transportation Commission  
1503 N. Imperial Avenue, Suite 104  
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Phone: (760) 592-4494

May 29, 2025

Prepared by: Marlene Flores  
Senior Transportation Planner

Proposals due no later than  
4:00 p.m. on Friday, June 27, 2025

## **EXHIBITS**

A – Sample Proposal Evaluation Form

B – Sample Consultant Agreement and Insurance Requirements\*

**For all Federally Funded Projects the following additional items shall also be considered part of the contract:**

- Exhibit 10-I: Notice to Proposers DBE Information

C – Required Certification by Consultant with Proposal

- Exhibit 15-H: DBE Information – Good Faith Efforts
- Exhibit 10-O1: Consultant Proposal DBE Commitment
- Exhibit 10-Q: Disclosure of Lobbying Activities

D – Required Certification by Consultant and ICTC at and/or after Contract Execution

- Exhibit 10-O2: Local Agency Proposer DBE Information (Consultant Contract)
- Exhibit 17-F: Final Report – Utilization of DBEs
- Exhibit 17-O: DBE Certification Status Change
- Exhibit 10H1: Cost Proposal

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# **THE IMPERIAL COUNTY TRANSPORTATION COMMISSION**

## **Request for Proposals For Imperial County EV Charging Station Passenger Vehicle Feasibility Study**

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### **I. INTRODUCTION**

The Imperial County Transportation Commission (ICTC) requests a feasibility study to evaluate the potential for implementing EV charging stations strategically across the region. As the demand for electric vehicles continues to rise, it is crucial to have adequate charging infrastructure to support the adoption of clean transportation. This study aims to identify suitable locations for charging stations (inclusive of requirements to build and electrify the facilities), considering factors such as population density, traffic patterns, and accessibility.

The Imperial County Transportation Commission (ICTC) seeks proposals from qualified and experienced consulting firms to provide an electric vehicle (EV) charging station feasibility study addressed to ICTC and with the necessary information to understand the feasibility of establishing charging stations throughout the Imperial County, prime locations to establish such charging stations, and the potential impacts these stations may have on current infrastructure. The proposer will structure the approach, collect necessary data, validate assumptions, complete a model, interview stakeholders for alignment, and develop mapping for infrastructure needs in the Imperial County region.

The selected consultant will be responsible for:

- **Conducting Data Collection and Analysis:** Gather and analyze relevant data, including population density, traffic patterns, vehicle ownership trends, and current infrastructure conditions, to assess the need for EV charging stations across the Imperial County
- **Identifying Suitable Charging Station Locations:** Using data insights, identify and recommend prime locations for EV charging stations, considering factors such as accessibility, proximity to high-traffic areas, and equity in service coverage across the region.
- **Engaging Stakeholders:** Interview key stakeholders, including local government agencies, businesses, and community representatives, to ensure alignment with regional transportation goals and to gather input on infrastructure needs and preferences.
- **Evaluating Infrastructure Impacts:** Assess the potential impacts of implementing EV charging stations on existing infrastructure, including electricity grid capacity, local permitting requirements, roadway access, and parking facilities, and propose necessary upgrades or modifications.
- **Developing Feasibility Models:** Create models to evaluate the technical and financial feasibility of the proposed charging stations, considering installation costs, permitting, operational costs, and potential revenue generation.

- Creating Mapping and Reporting: Develop detailed mapping to illustrate optimal charging station locations and provide a comprehensive final report summarizing findings, recommendations, and next steps for ICTC to consider.
- EV Charging Station Passenger Vehicle Feasibility Study – DBE Goal 12%.
- Services that are partially funded with Federal funds are subject to Part 26, Title 49, Code of Federal Regulations entitled “Participation by Disadvantaged Business Enterprises (DBE) in the Department of Transportation Financial Assistance program.”

## **Project Background**

The Electric Vehicle (EV) Charging Station Feasibility Study for the Imperial County Region aims to assess the practicality and viability of establishing EV charging infrastructure at critical strategic locations. The project's background lies in the growing importance of sustainable transportation and the shift towards electric vehicles. The Imperial County region, encompassing the cities of Brawley, Calexico, Calipatria, El Centro, Holtville, Imperial, Westmorland, and the unincorporated areas (County), lack comprehensive EV charging infrastructure.

The need for this study is driven by several factors including alignment with California zero emissions goals, boarder environmental goals, and alignment with greenhouse gas (GHG) emissions reduction goals. Electric vehicles are inherently more environmentally friendly than their fossil fuel counterparts, but their widespread adoption requires an adequate charging infrastructure. Data collection analysis developed in this study aim support the Imperial County regionwide transition to cleaner transportation options.

The study will focus on enhancing regional connectivity, promoting sustainable transportation, and contributing to air quality improvements. The initiative aligns with the South California Association of Government’s Connect SoCal 2024 plan by embracing the vision of sustainable and connected communities by emphasizing the following key components:

### **1. Regional Impact**

- Facilitate economic growth by attracting EV-related businesses and encouraging tourism
- Enhance energy resilience by promoting a diversified and sustainable transportation ecosystem.

### **2. Promote Sustainable and Clean Transportation**

- Encourage the adoption of electric vehicles, contributing to a reduction in greenhouse gas emissions and air pollutants.
- Support the adoption of Electric vehicles by creating a well-planned and accessible EV charging network that aligns with environmental and sustainable goals.

3. Connectivity

- Integrate EV charging infrastructure with existing transportation networks to promote seamless travel experiences.

4. Technology Integration

- Implement smart charging solutions, utilizing advanced technologies for efficient energy distribution and consumption.

## **ICTC Objectives of the EV Charging Station Passenger Vehicle Feasibility Study**

1. Advance Sustainable Transportation Solutions

- Develop a strategic EV charging network that supports ICTC's commitment to environmental sustainability and the reduction of carbon emissions.

2. Improve Regional Mobility and Accessibility

- Enhance transportation options for all residents, particularly those in rural and underserved communities, by strategically locating EV charging stations to ensure convenient access throughout the Imperial County.
- Support ICTC's goal of making the transportation system more inclusive and accessible, contributing to a higher quality of life for residents.

3. Strengthen Infrastructure Resiliency

- Building a resilient transportation infrastructure that can accommodate evolving technologies, like EV charging, without compromising current systems.

4. Facilitate Regional Collaboration and Planning

- Use this study to promote collaboration between local governments, permitting agencies, utility companies, and regional stakeholders to ensure that transportation solutions are aligned with broader regional plans and priorities.
- Support ICTC's aim to strengthen partnerships across the region, creating a cohesive and efficient approach to transportation and infrastructure planning.

## **II. GENERAL BACKGROUND**

The ICTC serves as a regional transportation planning and transit agency for the Imperial County. The commission is committed to improving the Imperial County transportation system and regional economy by providing its residents and businesses with easier access to jobs, schools, shopping, and essential community services.

To achieve our commitment, ICTC works with each of the cities and the county to plan, fund, and manage a wide range of programs and activities designed to keep Imperial County moving. ICTC

builds consensus, makes strategic plans, obtains and allocates resources, contracts for transit services, and provides information on a broad range of topics pertinent to the Imperial Valley region's transportation services and infrastructure.

ICTC is an independent public agency governed by a Commission composed of city council members and county supervisors from each of the region's eight (8) local governments and the Imperial Irrigation District (IID). Membership includes the cities of Brawley, Calipatria, Calexico, El Centro, Holtville, Imperial, Westmorland, the County of Imperial, and the IID.

### **III. PROJECT SCHEDULE**

ICTC anticipates the process for nominating and selecting a consultant and awarding the contract will be according to the following tentative schedule:

A.	Advertise and Issue RFP	May 29, 2025
B.	Pre-Proposal Conference	June 11, 2025
C.	Last Day to Submit Questions Regarding RFP	June 16, 2025
D.	Proposal Due Date	June 27, 2025
E.	Provider Ranking and Staff Recommendation (non-public opening)	Week of June 30, 2025
F.	Oral Interviews (if utilized)	Week of June 30, 2025
G.	Selection and Notification Award	July 2025
H.	ICTC Approval of Contract	July 2025
I.	Notice of Award/Notice to Proceed	August 2025
J.	Completed Initial Draft Report	June 2026
K.	Presentation of Report to Commission	July 2026
L.	Delivery of Final Report	August 2026

### **IV. SCOPE OF WORK**

ICTC is seeking a qualified consultant to provide a comprehensive analysis and strategic plan for the development of EV charging Infrastructure in Imperial County. The ideal consultant also possesses the ability to provide pro-activeness, vision, innovation, and collaboration in examining and proposing EV recommendations.

Outlined below is the scope of work that will guide the development of the study. ICTC has included the following scope of work to provide interested consultants insight into the project intent, context, coordination, responsibilities, and other elements to help facilitate proposal development. At a minimum, the consultant shall be expected to establish detailed analyses, assessments, and recommendations for the following:

## **Work Task**

### **1. Project Management and Coordination**

The consultant shall be required to manage the study and coordination, as well as bear responsibility for all documentation and equipment needs. The consultant will identify a project lead from their team to act as the direct point of contact for ICTC's project manager.

This task will also include regular progress meetings with ICTC and its member agencies, the preparation of monthly progress reports, documentation of travel and expense receipts, and the preparation and submission of invoices. When submitting progress reports, the consultant will be required to outline the following:

- Performed work;
- Upcoming tasks or milestones;
- Status of scope and schedule; and
- Any issues to be aware of.

In addition to regular updates with ICTC staff, the consultant will be expected to:

1. Establish a working group (in conjunction with ICTC) and conduct an initial kick-off meeting.
2. Provide at least two progress updates to key stakeholders organized with ICTC staff.
3. Present the final plan at an ICTC Technical Advisory Committee, Management Committee, and Commission meeting.

### **2. Public and Stakeholder Involvement**

The consultant shall develop and implement a community engagement program that seeks to gain input from community members from across Imperial County. Outreach efforts should be aimed at identifying existing conditions, obstacles, and opportunities for increased use of EVs and EV Infrastructure.

At a minimum, the community engagement response should address the following:

- Engagement strategies and activities tied back to reaching identified stakeholder groups;

- Timeline for community engagement activities and desired type of community feedback

The consultant will be expected to meet the following criteria:

1. Conduct at least two outreach activities at key locations or events.
2. Conduct stakeholder outreach with cities, county, and utility providers.
3. Provide a comprehensive overview of community outreach activities and documented feedback.

### **3. Existing Conditions Analysis**

The consultant shall develop a comprehensive plan and carry out the evaluation of existing conditions within the Imperial County. This will include the following at minimum:

1. Estimate EVs on the road in Imperial County and number of charging stations needed to support such numbers. Provide a recommendation on the minimum EV charger volume needed for the EV charging market to operate sustainably.
2. Evaluate traffic patterns, frequency of existing station use (private and public), and peak demand.
3. Review completed or in-progress studies being conducted by Caltrans regarding EV Infrastructure.
4. Identification and location of communities and neighborhoods that qualify as disadvantaged.
5. Use data for key destinations of interest, such as parks, or campgrounds.
6. Description of existing types of EV charging

### **4. Sitting Analysis**

The objective of this task will be to conduct an initial feasibility analysis to identify sites for potential EV charging facility locations within the geographic Imperial County which will enable EV travel within and throughout Imperial County. The consultant shall develop a comprehensive plan for the sitting analysis that at minimum addresses the key tasks and milestone dates for completion.

The consultant will be expected to conduct an analysis that encompasses at minimum the following:

1. Identify high-capacity locations other than employment centers for charging infrastructure development. Create asset inventory mapping of key locations within the county. Identify future development locations & EV charging infrastructure needs per location.



2. Identify equitable locations for charging infrastructure development. Categorize the charging stations by various accessibility and use case types such as long-travel, retail locations, and work charging stations. Create asset inventory mapping of key locations within the county.
3. Determine electric power grid infrastructure availability and gaps to provide power to the charging station locations identified.
4. Identify specific permitting requirements for each location.
5. Determine location-specific max load.
6. Explore possible impacts/conflicts with EV charging infrastructure and parking facilities, pedestrian ways, public utilities, private utilities, etc.
7. Explore possible regional barriers to infrastructure deployment.
8. Estimate the proposed cost to build, maintain and operate the infrastructure and/or facility. Estimate long term cost for operation and maintenance and revenue generation.
9. Determine the potential GHG Reduction per site.
10. Prepare a preliminary site schematic for identified locations including diagrams, concepts, or design. Include ADA compliance for each potential location.
11. Site analysis must include the transit centers located at the following locations:
  - a. State St. and 7th in El Centro, CA 92243
  - b. South Plaza and 5th St in Brawley, CA 92227

## **5. Regulatory Analysis**

The objective of this task is to research and outline the regulatory compliance necessary for the successful installation of EV charging infrastructure at the previously identified locations.

The consultant will be expected to conduct a location-specific analysis (for each identified location) that encompasses at minimum the following:

1. Analyze and define charging infrastructure development regulations and planning requirements.
2. Analyze and define the methods of compliance including but not limited to county and state registration processes.
3. Analyze industry standards and best practices for installation and maintenance.
4. Analyze ADA best practices for installation, site requirements and maintenance.
5. Analyze and define potential cost ranges for installation, operations, break-even, and point of profitability in relation to size and fit for identified locations county-wide.
6. Analyze and define best practices for emergencies including but not limited to natural disasters, power blackouts, and fires with the EV charging equipment.
7. Analyze and define industry standards for off-grid alternatives.

## **6. Environmental Impact Analysis**

The objective of this task is to assess the environmental implications of installing EV charging stations across the Imperial County and propose strategies to mitigate potential negative impacts.

The consultant will be required to provide the following:

1. Evaluate potential environmental impacts of EV charging station installations at specific locations, including:
  - a. Impacts on local ecosystems and wildlife.
  - b. Land use and zoning considerations.
  - c. Carbon emission reductions resulting from increased EV adoption.
2. Identify any environmental risks, such as hazardous material handling or changes to natural habitats and propose mitigation strategies.
3. Ensure compliance with local, state, and federal environmental regulations

## **7. Proposed Cost Analysis for Recommended Locations**

The objective of this task is to provide a transparent and detailed analysis for the installation, operation, and maintenance of EV Charging stations at each location. This analysis will assist ICTC and its member agencies with understanding the budgetary requirements, identifying cost-effective strategies, and securing funding opportunities. By presenting site-specific cost estimates, local agencies can prioritize locations based on financial feasibility and alignment with regional transportation goals.

The consultant will be required to provide the following:

1. Provide detailed cost estimates for installing, operating, and maintaining EV charging stations at each proposed location.
  - a. Break down costs into categories, such as hardware, installation labor, permitting, maintenance, and energy supply.
  - b. Include a cost comparison of Level 2 and Level 3 (fast-charging) stations for each site.
2. Analyze potential funding sources, including federal/state grants, private investments, or public-private partnerships.
3. Conduct a financial feasibility analysis to estimate ROI and payback periods for each site.

## **8. Draft and Final Plan**

The consultant will be required to prepare and present a draft and final plan. The team will work to incorporate or address any comments received on the draft plan into the final plan.

## **Deliverables**

Consultant shall deliver:

### **1. Project Initiation and Communication Plan**

The consultant shall produce monthly Status Reports which shall be submitted electronically to the ICTC Project Manager, or his designee, and shall include a description of accomplishments to date, a comparison of actual-to-scheduled progress and the proportion of budget expended by project task. Detailed project timeline outlining key milestones, deliverables, and communication strategies.

Summary of the project kickoff meeting, including goals, stakeholder roles, and discussion outcomes.

### **2. Data Collection and Analysis Report**

All data and working papers used for the study will remain the domain and property of ICTC upon completion of the project and may be used in the future at ICTC's discretion.

Submission of all source data for surveys and system and site analyses. Comprehensive report of collected data, including demographic analysis, traffic patterns, current EV ownership, and existing infrastructure assessments.

Identification and summary of data gaps and proposed methods to address them.

Market and trend analysis findings highlight national and regional EV adoption patterns.

### **3. Site Suitability Assessment**

Criteria and methodology for evaluating and prioritizing potential charging station locations.

GIS-based maps illustrate evaluated and recommended charging station sites with detailed analysis of suitability.

### **4. Stakeholder Engagement Documentation**

Summary of stakeholder interviews, including key insights, concerns, and recommendations.

Documentation of community outreach efforts, such as meeting agendas, presentation materials, and feedback collected.

### **5. Infrastructure Impact Assessment**

Detailed assessment of the impact of proposed charging stations on current roadways, parking facilities, and the electrical grid.

Recommendations for infrastructure upgrades or modifications to accommodate the new EV charging network.

Energy and grid analysis report developed in collaboration with utility providers.

## **6. Technical and Financial Feasibility Models**

Cost-benefit analysis, including a breakdown of installation, operational costs, and revenue projections.

Identification of funding and investment opportunities, along with potential partnerships to support the project.

Feasibility models that outline short-term and long-term financial viability.

## **7. Strategic Recommendations and Implementation Plan**

Comprehensive set of recommendations for EV charging station placement, design, and operations.

Phased implementation plan with prioritized locations and an actionable roadmap for rolling out infrastructure.

## **8. Mapping and Visualization Deliverables**

High-quality, GIS-based maps showing optimal charging station locations, including overlays of population density, traffic patterns, and key destinations.

Visual representations of proposed infrastructure improvements and grid impact analysis.

## **9. Draft/Final Report**

The consultant shall deliver the draft final report for review by ICTC staff prior to issuing final report. Consultant to develop recommendations for optimization of ICTC's immediate and future needs as it related to restructuring its existing bus services by taking into account the following:

- a. Executive summary capturing the study's objectives, methodology, key findings, and strategic recommendations.
- b. Full report detailing all analyses, data collection methods, stakeholder engagement results, and implementation strategies.
- c. Highlights of critical data points and insights, along with the overall vision for EV infrastructure in Imperial County.
- d. Purpose and scope of the study, including a statement of objectives and an explanation of ICTC's goals for EV infrastructure.
- e. Background on the growing demand for EV charging stations and the importance of this study to regional transportation and sustainability goals.
- f. Methodology
  - A detailed explanation of the methods used for data collection, analysis, and site assessments.
  - Description of geospatial tools and models applied to evaluate potential locations.
  - An overview of the stakeholder engagement process, including interview techniques and outreach strategies.
- g. Potential Challenges and Mitigation Strategies:

- Discussion of anticipated challenges, such as funding constraints, community resistance, or technological barriers.
- Proposals for overcoming these challenges, including proactive measures and contingency plans.
- h. Recommendations and Implementation Plan:
  - Detailed recommendations for the placement, design, and management of EV charging stations.
  - A phased rollout strategy, prioritizing high-impact sites and outlining steps for gradual infrastructure deployment.
  - Recommendations for signal prioritization to optimize transit operations, with an analysis of expected benefits and implementation considerations.
- i. Appendices
  - Supplementary data and documents, such as raw data tables, survey results, detailed stakeholder feedback, and technical model descriptions.
  - Reference materials, including a bibliography of sources used and relevant industry standards or best practices.

The result of the feasibility study will provide ICTC with a well-rounded foundation for decision-making, ensuring the recommendations are actionable and aligned with the region's goals for sustainable and efficient transportation.

## **V. PROPOSAL REQUIREMENTS**

### **A. GENERAL**

1. The proposal should be concise, well organized, and demonstrate the proposer's qualifications and experience applicable to the project. The proposal shall be limited to 100 double-sided pages, inclusive of resumes, graphics, forms, pictures, artwork, photographs, cover letters, etc., but not of letters of commitment from subcontractors. Type size and margins for text pages should be in keeping with accepted standard formats for desktop publishing and processing.
2. The written proposal must include a discussion of the proposer's approach to the project, a breakdown and explanation of project tasks, a proposed project schedule, an estimate of costs and documentation of the firm, and the consultant's qualifications for the scope of work. The cost estimate should be submitted in a separate sealed envelope.
3. The proposer will be evaluated based upon the information submitted under the evaluation criteria in Section IX, and compliance with all requirements of this RFP.

## **B. Contents**

Proposals submitted in response to this RFP shall be in the following order and shall include:

### **1. *Executive Summary***

Include a 1–2-page overview of the entire proposal describing the most important elements of the proposal.

### **2. *Identification of the Proposer and Establishment of Proposer's Fiscal Responsibility***

Please provide the following information:

- a. Legal name and address of proposer's company.
- b. Number of years the proposer's company has been in business.
- c. Legal form of company (partnership, corporation, joint venture, etc.). If joint venture, identify the members of the joint venture and provide all information required within the section for each member. If a corporation, certify that the corporation is in good standing with the Secretary of State.
- d. If a company is a wholly-owned subsidiary of a "parent company," provide the legal name and form of the parent company.
- e. Address(es) of primary office(s) that will work on this project.
- f. If DBE certified, identify the certifying agency, as well as gender and ethnicity.
- g. Name, title, address, email address, and telephone number of the person to contact concerning the proposal.
- h. State whether the proposer has filed bankruptcy in the last ten (10) years and provide any other relevant information concerning whether the proposer is financially capable of completing this project.
- i. Provide all applicable license numbers for licenses relevant to or required for this project, the names of the holders of those licenses, and the names of the agencies issuing those licenses.

**3. *Experience and Technical Competence***

Describe the proposer's experience in completing similar consulting efforts. List three (3) completed projects of a similar nature. For each completed project, provide the name of the company and project manager the proposer performed work for, telephone numbers, type of work performed, and dollar value of the contracts. A project currently being performed may be submitted for consideration as one of these references.

**4. *Proposed Method to Accomplish the Work***

Describe the proposer's technical and management approach to the project and how the proposer will plan for and accommodate each into the project effort. Provide a proposed project schedule. Discuss how and what lines of communication will be implemented to maintain the project schedule.

**5. *Knowledge and Understanding of Local Environment and Relevant Laws***

Describe the proposer's experience working in the local environment and proposed local presence for interfacing with ICTC's Project Coordinator. The environment includes, but is not limited to: cities, county, and other local agencies' regulations and policies. Describe proposer's experience with and knowledge of relevant State and Federal laws.

**6. *Project Organization and Key Personnel***

- a. Describe proposed project organization, including identification and responsibilities of key personnel. Indicate the role and responsibility of prime consultants and all sub-consultants, including DBE sub-consultants. If applicable, indicate how local firms are being utilized to ensure a strong understanding of State and local laws, ordinances, regulations, policies, requirements, and permitting. Indicate the extent of the commitment of key personnel for the duration of the project and furnish resumes of key personnel. Provide an indication of the staffing level for the project. ICTC's evaluation of the proposal will consider the proposer's entire team; therefore, no changes in the team composition will be allowed without the prior written approval of ICTC. Subconsultant letters of commitment are required.
- b. Describe the experience of the proposer's project team in detail, including the team's project manager, and other key staff members, on projects of similar size, capacity, and dollar value. For each similar project, including the client's name and telephone number. It is ICTC's

policy to interview the proposer's references.

***7. ICTC's Disadvantaged Business Enterprise (DBE) Program and Discrimination Policy***

- a. Proposers are required to obtain disadvantaged business enterprise (DBE) participation on this project. The specific goal for DBE participation is **12%** for the project. Biannual reporting is required with Good Faith Effort (GFE) documentation. It is ICTC policy to provide disadvantaged, minority, small business, and women-owned business enterprises, as defined in Part 26, Title 49 CFR, an equitable opportunity to participate in all contracting opportunities. ICTC's DBE Program, which includes minority and women-owned business enterprises, is designed so that contract administration, consultant selection, and all related procurement activities are conducted without regard to race, color, religion, disability, political beliefs, age, national origin, gender, or cultural background. Accordingly, no firm or individual shall be denied the opportunity to compete for ICTC contracts by reasons so stated or implied.
- b. ICTC requires all potential ICTC consultants to comply with Title VI and Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act, as amended, and all other applicable discrimination laws. ICTC will not tolerate illegal discrimination or harassment by its consultants.
- c. Describe the proposer's overall plan to make contracting opportunities available to all interested and qualified firms. This includes a strategy to identify the available subcontracting resources and a willingness to make subcontracting opportunities available to such firms.
- d. Submit a sub-consultant list, if applicable, which lists any sub-consultants for this project, DBE status (if applicable), the scope of work, and approximate percentage of the work performed by sub-consultants (as a percentage of the total award to the prime consultant). Under current federal regulations, DBEs and joint ventures involving DBEs must be certified for eligibility by Caltrans, by other qualified Department of Transportation recipients, or by other certifying public agencies. Documentation verifying DBE status must be submitted in the proposal for all firms (prime consultant or sub-consultant) claiming such status.



**8. *Previous Contracts with ICTC***

The proposer shall submit a list that indicates all prime contracts and/or amendments awarded to the proposer by ICTC for the last three (3) years. The list shall include a short description of the project, the project scope of work, award date, completion date, name of ICTC's assigned project manager, and contract value.

**9. *Exceptions/Deviations to this Request for Proposal***

State any requested exceptions to or deviations from the requirements of this RFP, segregating "technical" exceptions from "contractual agreement" exceptions. Each exception must reference the particular section and page in the RFP, Scope of Work, or a contractual agreement that refers to the ICTC's requirements for easy reference.

If no exceptions or deviations are requested in the proposal, then ICTC will interpret this to mean that the proposer is fully satisfied, and no further exceptions or deviations will be allowed.

**10. *Addenda to this Request for Proposals***

The proposer shall confirm in its proposal the receipt of all addenda issued to this RFP.

**11. *Statement of Impartiality***

The nature of this project requires an impartial unbiased approach on the part of the consultant team. This proposal shall include a statement declaring that the consultants and sub-consultants are not currently, and will not, during the performance of these services, participate in any other similar work involving a third party with interests currently in conflict or likely to conflict with ICTC's interests.

**12. *Detailed Cost Estimate***

One firm will be selected for this project. Cost Proposals (Caltrans LAPM Exhibit 10H Example 2) will not be submitted with the proposal. ICTC will first rank and score the submitted proposals and will contract the top-ranked firm for the submittal of the cost proposal. Cost proposals consider the following:

- A. Develop costs and fees for the services requested. Submit a not-to-exceed fee proposal based on anticipated fully burdened hourly rates.

B. When preparing costs and fees consider the scope of work involving project kick-off and review of available documentation, material submittals, and project documentation and prepare a lump sum fixed fee breakdown based on anticipated staff and hours. Costs should be organized for full-time hourly rates. Such hoarsely rates should be fully burned or loaded, including full compensation for all overhead and profit. Billing rates shall include provision for normal office costs, including but not limited to office rental, utilities insurance, cell phone or radio, equipment, normal supplies and materials, in-house reproduction services, and local travel costs.

C. No subcontractors shall be utilized without prior authorization by the ICTC and modification to the submitted DBE subcontractor's list or goal is discouraged and may lead to project funding issues.

D. Firm may submitted its own form of the cost proposal; however, Exhibit 10-H LAPM must be submitted as part of the proposal. Executable copies of Exhibit 10-H and all other updated LAPM forms can be found here: <https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms>

E. If using sub-consultants, the prime consultant must submit an exhibit 10-H for each sub-consultant (which only reflects the cost of the sub-consultant work). Those costs must be reflected in the cost proposal of the prime consultant. For more information, please consult the Caltrans Local Assistance Procedures Manual Chapter 10 "Consultant Selection."

### 13. *Confidential or Proprietary Information*

All proposals submitted in response to this RFP become the property of ICTC and are public records and, as such, may be subject to public review. Proposals and the documents constituting any contract entered into thereafter become the exclusive property of the ICTC and shall be subject to the California Public Records Act (Government Code Sections 6250 *et seq.*; "the Act"). The ICTC's use and disclosure of its records are governed by the Act.

Those elements in each proposal which the Provider considers to be trade secrets, as that term is defined in Civil Code Section 3426.1(d), or otherwise exempt by law from disclosure, should be prominently marked as "CONFIDENTIAL" or "PROPRIETARY" by the Provider. The ICTC will use its best efforts to inform the Provider of any request for disclosure of any such document. The ICTC shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked if the disclosure is deemed to be required by law or by an order of the Court.

In the event of litigation concerning disclosure of information the Provider considers exempt from disclosure, the ICTC will act as a stakeholder only, holding the information until otherwise ordered by a court or other legal process. If the ICTC is required to defend an action arising out of a request under the Act for any of the contents of the Provider's proposal marked "Confidential" or "Proprietary," the Provider shall defend and indemnify the ICTC from all liability, damages, costs, and expense, including attorneys' fees, in any action or proceeding arising under the Act.

To ensure confidentiality, the Provider is instructed to enclose all "Confidential," "Proprietary," data in so marked sealed envelopes, which should then be included with the proposal. Because the proposal is available for review by any person after award of a contract resulting from an RFP, the ICTC shall not in any way be held responsible for disclosure of any "Confidential" or "Proprietary" documents that are not contained in envelopes and prominently marked.

## VI. SUBMITTAL REQUIREMENTS

- A. Consultants are to submit (1) original, three (3) copies, and one USB drive containing a PDF version of the proposal marked "Imperial County EV Charging Station Passenger Vehicle Feasibility Study". Email submissions are **not** allowed. The proposal shall be held in confidence until the award of the contract. At that time, it becomes a matter of public record.
- B. The proposal transmittal letter and any required certifications shall be signed by an individual or individuals authorized to execute legal documents on behalf of the proposer.
- C. The proposal must be addressed to and received no later than 4 P.M., local time, on **June 27, 2025**, at the office of:

David Aguirre, Executive Director  
Imperial County Transportation Commission  
Attn: Marlene Flores, Senior Transportation Planner  
1503 N. Imperial Suite 104  
El Centro, CA. 92243

Postmarks will not be accepted in lieu of this requirement.

- D. Proposals are to be submitted in sealed packages with the following information marked on the outside of each package.

1. Name of proposer
  2. Project title
  3. Package Number (e.g., 1 of 2)
- E. Failure to comply with the requirements of the RFP may result in disqualification. ICTC is not responsible for finding, correcting, or seeking clarification regarding ambiguities or errors in proposals. If a proposal is found to contain ambiguities or errors, it may receive a lower score during the evaluation process. ICTC reserves the right to disqualify a proposed detailed cost estimate with mathematical or clerical errors, inconsistencies, or missing information that prevents ICTC from fully evaluating the proposal. ICTC may, but is not required to, seek clarification from a proposer regarding information in a proposal. Errors and ambiguities in proposals will be interpreted in favor of ICTC.
- F. Proposals and/or modifications received after the hour and date specified above will not be considered.

## **VII. PRE-SUBMITTAL ACTIVITIES**

### **A. Non-Mandatory Pre-Proposal Meeting and Questions Concerning Request for Proposals**

The non-mandatory pre-proposal conference will be on **Wednesday, June 11, 2025, at 10am** local time. Attendance is encouraged but not mandatory. The pre-proposal conference will be held virtually through Zoom. Zoom meeting information will be issued via addendum. Virtual meeting details will be posted on the ICTC website prior to the meeting date. ICTC is not responsible for loss of connections or inability to hear and participate in the conversation due to technical issues.

All questions relating to the RFP will be addressed as an addendum to the RFP, which will be posted on the ICTC website [www.imperialctc.org](http://www.imperialctc.org). Questions must be received from prospective bidders in writing via mail, email, or hand delivery no later than Monday, June 16, 2025, addressed to:

Marlene Flores, Senior Transportation Planner  
Imperial County Transportation Commission  
1503 N. Imperial Ave. Suite 104  
El Centro, CA 92243  
760-592-4494  
e-mail: [marleneflores@imperialctc.org](mailto:marleneflores@imperialctc.org)

**B. Revision/Addendum/Cancellation to the Request for Proposals**

ICTC reserves the right to revise or cancel the RFP or issue an addendum before the date that proposals are due. Revisions, cancellations, or addendums to the RFP shall be posted on the ICTC website at [www.imperialctc.org](http://www.imperialctc.org) at least one full business day before the deadline for proposals. It is the responsibility of the proposer to contact the ICTC project coordinator and check the Web site for any revisions related to this RFP.

**VIII. RESPONSIBILITIES OF THE ICTC**

- A. The ICTC will direct the development of the project, provide management oversight, coordinate communications, and introductions, and conduct administrative arrangements.
- B. The ICTC will pay an agreed-upon amount within 30 days after the submittal of an invoice(s). The ICTC will retain 5% of each invoice annually.
- C. The ICTC will not be able to provide dedicated workspace facilities i.e. office space. However, arrangements can be made to utilize conference room space.

**IX. CONSULTANT EVALUATION AND SELECTION PROCESS**

- A. ICTC will utilize a one-step process as noted in Caltrans Local Assistance Procedures Manual (LAPM) Chapter 10- Consultant Selection Process. ICTC reserved the right to include an oral interview process component. If an oral interview is considered, selected firms will be notified.
- B. Proposals will be reviewed by an evaluation committee. Sample evaluation criteria for proposals are attached for your information as Attachment A. The evaluation committee's assessment and recommendations shall be forwarded to the Executive Director for review. ICTC reserves the right to negotiate the price with the higher-ranked proposer and if agreement on the terms is not possible, the ICTC may opt to go with the next highest-ranked proposer (LAPM Chapter 10).
- C. ICTC reserves the right to select any consultant who is determined qualified and may not correlate to a number 1, number 2, or even number 3 ranked consultant. Additionally, ICTC reserves the right to reject any and all proposals submitted and/or requested additional information for clarification.

## **X. SPECIAL CONDITIONS**

### **A. Reservations**

This RFP does not commit ICTC to award a contract, to defray any costs incurred in the preparation of a proposal under this RFP, or to procure or contract for work. ICTC may reject bids without providing the reason(s) underlying the declination. A failure to award a contract to the lowest bidder will not result in a cause of action against ICTC.

### **B. Public Records**

All proposals submitted in response to this RFP become the property of ICTC and public records and, as such, may be subject to public review.

### **C. Right to Cancel**

ICTC reserves the right to cancel or revise, for any reason, in part or its entirety, this RFP. If ICTC cancels the RFP before the deadline for proposals or revises the RFP, notification will be placed on ICTC's Web site [www.imperialctc.org](http://www.imperialctc.org)

### **D. Additional Information**

ICTC reserves the right to request additional information and/or clarification from any or all proposers to this RFP but is under no obligation to do so.

### **E. Conflict of Interest**

ICTC has established a policy concerning potential conflict of interest in program management, design, and construction. This policy applies to all proposers and their proposed consultants/sub-consultants. See Standard Sample Agreement for Services in the Attachments for any additional information and required certifications by consultants and their sub-consultants.

### **F. Public Information**

Consultants who wish to release information to the public regarding consultant selection, contract award, or data provided by ICTC must receive prior written approval from ICTC before disclosing such information to the public.

### **G. Data Collection**

Upon completion of this project, the accumulated documentation becomes the property of the ICTC. The selected consultant will turn over all data, documents, reports, graphs, maps, etc. to ICTC staff.

## **H. Contract for Services**

The selected consultants will be required to sign a customized version of the attached “Standard Sample Agreement for Services” in the Attachments and to provide the insurance certificates and all other required documentation within fifteen (15) calendar days of issuance of the Notice of Intent to Award.

## **XII. RIGHT TO PROTEST CONTRACT AWARD**

ICTC will consider all protests regarding the contracting process, or the award of a contract submitted by 4:00 P.M. on the deadlines discussed below. ICTC will only review protests submitted by an actual or prospective proposer. A protest must be made in writing, contain an original signature and must be mailed or hand delivered to ICTC. Protests which do not strictly comply with ICTC’s protest procedures will be rejected.

Protests relating to the content of the RFP package must be filed on or before the date the response is due. Protests relating to the intent to make an award, must be filed within three days before the award. Untimely protests will be rejected.

If deemed necessary, ICTC shall notify all proposers of record that a protest has been filed and that the award has been postponed until further notice. If necessary, proposers will be asked to extend the time for acceptance of their proposal to avoid the need for re-advertisement of the solicitation.

### **A. Protest Contents**

A letter of protest must set forth detailed grounds for the protest and be fully supported with technical data, documentary evidence, names of witnesses, and other pertinent information related to the subject being protested. The protest must also state the law, rule, regulation, or practice on which the protest is based. The protestor must demonstrate or establish a clear violation of a specific law or regulation.

If the protestor considers that the protest contains proprietary material which should be withheld, a statement advising of this fact must be affixed to the front page of+ the protest document, and alleged proprietary information shall be so identified wherever it appears.

Protests shall be addressed to:

Marlene Flores, Senior Transportation Planner  
Imperial County Transportation Commission

1503 N. Imperial Ave. Suite 104  
El Centro, CA 92243

**B. Reply to Protest**

An ICTC Protest Committee appointed by the Executive Director will review all protests in a timely manner and reply to the protest in writing, within ten (10) business days. All relevant material submitted by the protestor will be considered. Such material will not be withheld from any interested party outside of ICTC or any agency which may be involved with the contract except to the extent that the withholding of information is permitted or required by law or regulations.

**C. Request for Protest Reconsideration**

Upon receipt of an adverse decision by the Executive Director of the ICTC, the protestor may file a request for protest reconsideration. A request for protest reconsideration must be directed to the Executive Director in writing and received within ten (10) full business days from the postmark date of the reply from ICTC. The Executive Director will respond to the request for protest reconsideration within ten (10) full business days and schedule a review with the Commission. The decision of the Commission will be final. No further protests will be heard by ICTC.

**D. State Appeal Process**

Under certain limited circumstances, and after the protester has exhausted all administrative protest remedies made available at the local level, an interested party may protest to the California Department of Transportation (Department) the award of a contract pursuant to a Federal Highway Administration (FHWA) grant.

Department review of any protest will be limited to:

1. Local agency's failure to have or follow its protest procedures or its failure to review a complaint or protest.
2. Violations of the Federal or State law or regulations.

The protest filed with Department shall include:

1. The name and address of the protester.
2. Clear identification of the local agency responsible for the RFP process.



3. A statement of the grounds for protest and any supporting documentation (the grounds for a protest filed with the Department must be fully supported to the extent feasible. Additional materials in support of an initial protest will only be considered if authorized by the FHWA regulations).
4. A copy of the protest filed with the local agency, and a copy of the local agency's decision, if any.
5. Indication of the desired ruling or relief from the Department.

Such support should be sent to:

The California Department of Transportation  
Division of Rail and Mass Transportation  
P.O. Box 942874 - MS 39  
Sacramento, CA 942874-0001

## Attachment A

### Sample Proposal Evaluation Form

## SAMPLE PROPOSAL EVALUATION FORM

DATE:\_\_\_\_\_

EVALUATOR:\_\_\_\_\_

RESPONDENT:\_\_\_\_\_

PROJECT:\_\_\_\_\_

CRITERIA	MAXIMUM POINTS	SCORE
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1. Project Technical Experience	30	
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2. Methodology and Approach	30	
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3. Staff Qualifications and Key Personnel	25	
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4. Completeness and References	15	
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TOTAL SCORE:		
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Comments:

Attachment B

Sample Consultant Agreement

1 **AGREEMENT FOR SERVICES**

2  
3 THIS AGREEMENT FOR SERVICES (“Agreement”), made and entered into this \_\_\_\_\_ day  
4 of \_\_\_\_\_, 2025, is by and between the **IMPERIAL COUNTY TRANSPORTATION**  
5 **COMMISSION** (“ICTC”) and [business name] [business type] (“CONSULTANT”) (individually,  
6 “Party;” collectively, “Parties”).

7 **W I T N E S S E T H**

8 **WHEREAS**, ICTC desires to retain a qualified individual, firm or business entity to provide  
9 professional services for Imperial County EV Charging Station Passenger Vehicle Feasibility Study,  
10 Federal Aid Project (XXX) (“the Project”); and

11 **WHEREAS**, ICTC desires to engage CONSULTANT to provide services by reason of its  
12 qualifications and experience for performing such services, and CONSULTANT has offered to provide the  
13 required services for the Project on the terms and in the manner set forth herein.

14 **NOW, THEREFORE**, ICTC and CONSULTANT have and hereby agree to the following:

15 1. **DEFINITIONS.**

16 1.1. “RFP” shall mean ICTC’s request for proposals entitled “Imperial County Transportation  
17 Commission (ICTC) Request for Proposals for Imperial County EV Charging Station Passenger Vehicle  
18 Feasibility Study, Federal Aid Project number (XXX)” dated May XX, 2025. The RFP is attached as  
19 **Exhibit “A”** and incorporated herein by this reference.

20 1.2 “Proposal” shall mean CONSULTANT’s proposal entitled “Proposal to Provide: [name of  
21 proposal]” dated [date]. The Proposal is attached as Exhibit “B” and incorporated herein by this  
22 reference.

23 2. **CONTRACT COORDINATION.**

24 CONSULTANT shall assign a single Contract Manager to have overall responsibility for the  
25 progress and execution of this Agreement. (XXXX), is hereby designated as the Contract Manager for  
26 CONSULTANT. Should circumstances or conditions subsequent to the execution of this Agreement  
27 require a substitute Contract Manager for any reason, the Contract Manager’s designee shall be subject to  
28 the prior written acceptance and approval of ICTC.

1 3. DESCRIPTION OF WORK.

2 3.1. CONSULTANT shall provide all materials and labor to perform this Agreement consistent  
3 with the RFP and Proposal. In the event of a conflict among this Agreement, the RFP, and the Proposal, the  
4 RFP shall take precedence over the Proposal and this Agreement shall take precedence over both.

5 3.2. CONSULTANT shall perform additional or extra work if required, utilizing the per hour  
6 rate set forth in **Exhibit "C"**.

7 4. WORK TO BE PERFORMED BY CONSULTANT.

8 4.1. CONSULTANT shall comply with all terms, conditions and requirements of the Proposal  
9 and this Agreement.

10 4.2. CONSULTANT shall perform such other tasks as necessary and proper for the full  
11 performance of the obligations assumed by CONSULTANT hereunder.

12 4.3. CONSULTANT shall:

13 4.3.1. Procure all permits and licenses, pay all charges and fees, and give all notices that  
14 may be necessary and incidental to the due and lawful prosecution of the services to be performed  
15 by CONSULTANT pursuant to this Agreement;

16 4.3.2. Use the standard of care usual to CONSULTANT's profession to keep itself fully  
17 informed of all applicable existing and proposed federal, state and local laws, ordinances,  
18 regulations, orders and decrees which may affect those engaged or employed under this Agreement,  
19 any materials used in CONSULTANT's performance under this Agreement or the conduct of the  
20 services under this Agreement;

21 4.3.3. At all times observe and comply with, and cause all of its employees to observe and  
22 comply with all of said laws, ordinances, regulations, orders and decrees mentioned above; and

23 4.3.4. Immediately report to ICTC in writing any discrepancy or inconsistency it discovers  
24 in said laws, ordinances, regulations, orders and decrees mentioned above in relation to any plans,  
25 drawings, specifications or provisions of this Agreement.

26 4.4. Any videotape, reports, information, data or other material given to, or prepared or  
27 assembled by, CONSULTANT pursuant to this Agreement shall be the property of ICTC and shall not be  
28 made available to any individual or organization by CONSULTANT without the prior written approval of

1 ICTC. The preceding restriction shall not apply to information which is in the public domain, was  
2 previously known to CONSULTANT, was acquired by CONSULTANT from others who have no  
3 confidential relationship to ICTC with respect to same, or which through no fault of CONSULTANT  
4 comes into the public domain. CONSULTANT shall not be restricted from releasing information,  
5 including confidential information, in response to a subpoena, court order, or other legal process.  
6 CONSULTANT shall not be required to resist such subpoena, court order, or legal process, but shall  
7 promptly notify ICTC in writing of the demand for information before responding to such demand.

8 5. REPRESENTATIONS BY CONSULTANT.

9 5.1. CONSULTANT understands and agrees that ICTC has limited knowledge in the multiple  
10 areas specified in the Proposal. CONSULTANT has represented itself to have experience in these fields  
11 and understands that ICTC is relying upon such representation.

12 5.2. Subject to 5.2.1, CONSULTANT represents and warrants that it is a lawful entity  
13 possessing all required licenses and authorities to do business in the State of California and perform all  
14 aspects of this Agreement.

15 5.2.1. CONSULTANT shall not commence any work pursuant to this Agreement or  
16 provide any other services, or materials, in connection therewith until CONSULTANT has received  
17 written authorization from ICTC to do so.

18 5.3. CONSULTANT represents and warrants that the people executing this Agreement on behalf  
19 of CONSULTANT have the authority of CONSULTANT to sign this Agreement and bind  
20 CONSULTANT to the performance of all duties and obligations assumed by CONSULTANT herein.

21 5.4. CONSULTANT represents and warrants that any employee, contractor and/or agent who  
22 will be performing any of the duties and obligations of CONSULTANT herein possess all required licenses  
23 and authorities, as well as the experience and training, to perform such tasks.

24 5.5. CONSULTANT represents and warrants that the allegations contained in the Proposal are  
25 true and correct.

26 5.6. CONSULTANT understands that ICTC considers the representations made herein to be  
27 material and would not enter into this Agreement with CONSULTANT if such representations were not  
28 made.

1 6. COMPENSATION.

2 The total compensation payable under this Agreement shall not exceed \_\_\_\_\_ dollars  
3 (\$\_\_\_\_\_) unless otherwise previously agreed to by ICTC.

4 7. PAYMENT.

5 CONSULTANT will bill ICTC on a time and material basis upon completion of the project or as set  
6 forth in the cost schedule attached hereto as **Exhibit "C"**. ICTC shall pay CONSULTANT for completed  
7 and approved services upon presentation of its itemized billing. Notwithstanding the foregoing, ICTC may  
8 retain 5% of the total compensation until the work to be performed has been completed in accordance with  
9 this Agreement, as determined by ICTC, and payment in full of all subcontractors of CONSULTANT.

10 8. METHOD OF PAYMENT.

11 8.1 CONSULTANT shall at any time prior to the 15th day of any month, submit to ICTC a  
12 written claim for compensation for services performed. The claim shall be in a format approved by ICTC.  
13 CONSULTANT may expect to receive payment within a reasonable time thereafter and in any event in the  
14 normal course of business within thirty (30) days after the claim is submitted.

15 9. TERM AND TIME FOR COMPLETION OF THE WORK.

16 9.1. This Agreement shall commence on the date first written above and shall remain in effect  
17 through completion of the Project unless otherwise terminated as provided herein.

18 9.2. Program scheduling shall be as described in Exhibit "A" unless revisions to Exhibit "A" are  
19 approved by both ICTC and CONSULTANT's Contract Manager. Time extensions may be allowed for  
20 delays caused by ICTC, other governmental agencies, or factors not directly brought about by the  
21 negligence or lack of due care on the part of CONSULTANT.

22 10. SUSPENSION OF AGREEMENT.

23 ICTC shall have the authority to suspend this Agreement, wholly or in part, for such period as  
24 deemed necessary due to unfavorable conditions or to the failure on the part of CONSULTANT to perform  
25 any provision of this Agreement. CONSULTANT will be paid the compensation due and payable to the  
26 date of suspension.

27 11. SUSPENSION AND/OR TERMINATION.

28 11.1. ICTC retains the right to terminate this Agreement for any reason by notifying



CONSULTANT in writing seven (7) days prior to termination and by paying the compensation due and payable to the date of termination; provided, however, if this Agreement is terminated for fault of CONSULTANT, ICTC shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT's services which have been performed in accordance with the terms and conditions of this Agreement. Said compensation is to be arrived at by mutual agreement between ICTC and CONSULTANT; should the Parties fail to agree on said compensation, an independent arbitrator shall be appointed and the decision of the arbitrator shall be binding upon the Parties.

11.2. Upon such termination, CONSULTANT shall immediately turn over to ICTC any and all copies of videotapes, studies, sketches, drawings, computations and other data, whether or not completed, prepared by CONSULTANT in connection with this Agreement. Such materials shall become the permanent property of ICTC.

#### 12. INSPECTION.

CONSULTANT shall furnish ICTC with every reasonable opportunity for ICTC to ascertain that the services of CONSULTANT are being performed in accordance with the requirements and intentions of this Agreement. All work done and materials furnished, if any, shall be subject to ICTC's inspection and approval. The inspection of such work shall not relieve CONSULTANT of any of its obligations to fulfill its Agreement as prescribed.

#### 13. OWNERSHIP OF MATERIALS.

All original drawings, videotapes and other materials prepared by or in possession of CONSULTANT pursuant to this Agreement shall become the permanent property of ICTC and shall be delivered to ICTC upon demand.

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#### 14. INTEREST OF CONSULTANT.

14.1. CONSULTANT covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder.

1 14.2. CONSULTANT covenants that, in the performance of this Agreement, no sub-contractor or  
2 person having such an interest shall be employed.

3 14.3. CONSULTANT certifies that no one who has or will have any financial interest pursuant to  
4 this Agreement is an officer or employee of ICTC.

5 15. INDEMNIFICATION.

6 A. Indemnity for Professional Services. To the furthest extent allowed by law, Consultant  
7 shall indemnify, hold harmless and defend ICTC and its members, board members, officers, officials,  
8 and employees, from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether  
9 in contract, tort or strict liability, including but not limited to personal injury, death at any time and  
10 property damage), and from any and all claims, demands and actions in law or equity (including  
11 reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence,  
12 recklessness or willful misconduct of Consultant, its principals, officers, and employees, in the  
13 performance of professional services under this Agreement.

14 B. Other Indemnities. Other than in the performance of professional services, and to the  
15 fullest extent allowed by law, Consultant shall indemnify, hold harmless and defend ICTC and its  
16 members, board members, officers, officials, and employees, from any and all loss, liability, fines,  
17 penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not  
18 limited to personal injury, death at any time and property damage), and from any and all claims,  
19 demands and actions in law or equity (including reasonable attorney's fees and litigation expenses)  
20 arising or alleged to have arisen directly or indirectly out of performance of this Agreement.  
21 Consultant's obligations under the preceding sentence shall apply regardless of whether ICTC or any of  
22 its members, board members, officers, officials, employees, agents or volunteers are negligent, but shall  
23 not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active  
24 negligence, or caused by the willful misconduct, of ICTC, or any of its members, board members,  
25 officers, officials, employees, agents or volunteers.

26 C. If Consultant should subcontract all or any portion of the services to be performed under  
27 this Agreement, Consultant shall require each subcontractor to indemnify, hold harmless and defend  
28

1 ICTC and its members, board members, officers, officials, employees, agents and volunteers in  
2 accordance with the terms of the preceding paragraphs.

3 D. This section shall survive termination or expiration of this Agreement.

4 16. INDEPENDENT CONTRACTOR.

5 In all situations and circumstances arising out of the terms and conditions of this Agreement,  
6 CONSULTANT is an independent contractor, and as an independent contractor, the following shall  
7 apply:

8 16.1. CONSULTANT is not an employee or agent of ICTC and is only responsible for the  
9 requirements and results specified by this Agreement or any other agreement.

10 16.2. CONSULTANT shall be responsible to ICTC only for the requirements and results  
11 specified by this Agreement and except as specifically provided in this Agreement, shall not be subject  
12 to ICTC's control with respect to the physical actions or activities of CONSULTANT in fulfillment of  
13 the requirements of this Agreement.

14 16.3. CONSULTANT is not, and shall not be, entitled to receive from, or through, ICTC, and  
15 ICTC shall not provide, or be obligated to provide, CONSULTANT with Worker's Compensation  
16 coverage or any other type of employment or worker insurance or benefit coverage required or provided  
17 by any Federal, State or local law or regulation for, or normally afforded to, an employee of ICTC.

18 16.4. CONSULTANT shall not be entitled to have ICTC withhold or pay, and ICTC shall not  
19 withhold or pay, on behalf of CONSULTANT, any tax or money relating to the Social Security Old Age  
20 Pension Program, Social Security Disability Program, or any other type of pension, annuity, or disability  
21 program required or provided by any Federal, State or local law or regulation.

22 16.5. CONSULTANT shall not be entitled to participate in, or receive any benefit from, or  
23 make any claim against any ICTC fringe program, including, but not limited to, ICTC's pension plan,  
24 medical and health care plan, dental plan, life insurance plan, or any other type of benefit program, plan,  
25 or coverage designated for, provided to, or offered to ICTC's employee.

26 16.6. ICTC shall not withhold or pay, on behalf of CONSULTANT, any Federal, State, or local  
27 tax, including, but not limited to, any personal income tax, owed by CONSULTANT.

1 16.7. CONSULTANT is, and at all times during the term of this Agreement, shall represent  
2 and conduct itself as an independent contractor, not as an employee of ICTC.

3 16.8. CONSULTANT shall not have the authority, express or implied, to act on behalf of, bind  
4 or obligate ICTC in any way without the written consent of ICTC.

5 17. INSURANCE.

6 Throughout the life of this Agreement, Consultant shall pay for and maintain in full force and  
7 effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by  
8 the California Insurance Commissioner to do business in the State of California and rated not less than  
9 "A- VII" in Best's Insurance Rating Guide, or (ii) as may be authorized in writing by ICTC's Executive  
10 Director or his/her designee at any time and in his/her sole discretion. The following policies of  
11 insurance are required:

12 (i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the  
13 most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form  
14 CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising  
15 injury" with coverage for premises and operations (including the use of owned and non-owned  
16 equipment), products and completed operations, and contractual liability (including, without limitation,  
17 indemnity obligations under the Agreement) with limits of liability of not less than the following:

18 \$2,000,000 per occurrence for bodily injury and property damage

19 \$1,000,000 per occurrence for personal and advertising injury

20 \$4,000,000 aggregate for products and completed operations

21 \$4,000,000 general aggregate

22 (ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as  
23 the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01,  
24 and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code  
25 1 - Any Auto) with limits of liability of not less than \$1,000,000 per accident for bodily injury and  
26 property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.  
(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

(v) PROFESSIONAL LIABILITY (Errors and Omissions) insurance appropriate to Consultant's profession, with limits of liability of \$2,000,000 per claim/occurrence and \$2,000,000 policy aggregate.

In the event Consultant purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

Consultant shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Consultant shall also be responsible for payment of any self-insured retentions. At no time shall ICTC be responsible for the payment of any deductibles or self-insured retentions.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to ICTC. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Consultant shall furnish ICTC with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for ICTC, Consultant shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing operations and completed operations) and Automobile Liability insurance policies shall name ICTC, its members, board members, officers, officials, employees and agents as an additional insured. All such policies of insurance, excluding Professional Liability and Workers Compensation, shall be endorsed so Consultant's insurance shall be primary and no contribution shall be required of ICTC, its members, board members, officers, officials, employees, agents or volunteers. The coverage(s) shall contain no special limitations on the scope of protection afforded to ICTC, its members, board members, officers, officials, employees and agents.

1 The Workers' Compensation insurance policy shall contain a waiver of subrogation as to ICTC, its  
2 members, board members, officers, employees, agents and volunteers.

3 If the Professional Liability (Errors and Omissions) insurance policy is written on a claims-made  
4 coverage form:

5 (i) The retroactive date must be shown, and must be before the effective date of this Agreement  
6 or the commencement of work by Consultant.

7 (ii) Insurance must be maintained and evidence of insurance must be provided for at least 5  
8 years after completion of the work or termination of the Agreement, whichever first occurs.

9 (iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy  
10 form with a retroactive date prior to the effective date of the Agreement, or work commencement date,  
11 Consultant must purchase extended reporting period coverage for a minimum of 5 years after  
12 completion of the work or termination of the Agreement, whichever first occurs.

13 (iv) A copy of the claims reporting requirements must be submitted to ICTC for review.

14 (v) These requirements shall survive expiration or termination of the Agreement.

15 Consultant shall furnish ICTC with all certificate(s) and applicable endorsements effecting  
16 coverage required hereunder. **All certificates and applicable endorsements are to be received and**  
17 **approved by ICTC's Executive Director or his/her designee in his/her sole discretion prior to**  
18 **ICTC's execution of the AGREEMENT and before work commences.** Upon request by ICTC,  
19 Consultant shall provide for review of redacted copies of insurance policies at Consultant's corporate  
20 office. This requirement shall survive expiration or termination of this Agreement.

21 If at any time during the life of the Agreement or any extension, Consultant or any of its sub-  
22 Consultants fail to maintain any required insurance in full force and effect, all work under this  
23 Agreement shall be discontinued immediately, until notice is received by ICTC that the required  
24 insurance has been restored to full force and effect and that the premiums therefore have been paid for a  
25 period satisfactory to ICTC. Any failure to maintain the required insurance shall be sufficient cause for  
26 ICTC to terminate this Agreement. No action taken by ICTC hereunder shall in any way relieve  
27 Consultant of its responsibilities under this Agreement.  
28

1 The fact that insurance is obtained by Consultant shall not be deemed to release or diminish the  
2 liability of Consultant, including, without limitation, liability under the indemnity provisions of this  
3 Agreement. The duty to indemnify ICTC shall apply to all claims and liability regardless of whether any  
4 insurance policies are applicable. The policy limits do not act as a limitation upon the policy limits do  
5 not act as a limitation upon the amount of indemnification to be provided by Consultant. Approval or  
6 purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the  
7 liability of Consultant, its principals, officers, agents, employees, persons under the supervision of  
8 Consultant, vendors, suppliers, invitees, sub-Consultants, or anyone employed directly or indirectly by  
9 any of them.

10 If Consultant should subcontract all or any portion of the services to be performed under this  
11 Agreement, Consultant shall require each sub-Consultant to provide insurance protection in favor of  
12 ICTC, its members, board members, officers, officials, employees, agents and volunteers in accordance  
13 with the terms of each of the preceding paragraphs, except that the sub-Consultant's certificates and  
14 endorsements shall be on file with Consultant and ICTC prior to the commencement of any work by the  
15 sub-Consultant.

16 18. ASSIGNMENT.

17 Neither this Agreement nor any duties or obligations hereunder shall be assignable by  
18 CONSULTANT without the prior written consent of ICTC. CONSULTANT may employ other  
19 specialists to perform services as required with prior approval by ICTC.

20 19. NON-DISCRIMINATION.

21 During the performance of this Agreement, CONSULTANT shall not unlawfully discriminate  
22 against any employee or applicant for employment or employee of ICTC or member of the public  
23 because of race, religion, color, national status, age, or sex. CONSULTANT shall ensure that the  
24 evaluation and treatment of its employees and applicants for employment and employees and members  
25 of the public are free of such discrimination. CONSULTANT shall comply with all provisions of the  
26 Fair Employment and Housing Act (Government Code §12900, *et seq.*). The applicable regulations of  
27 the Fair Employment Housing Commission implementing Government Code §12900 set forth in  
28 Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this

Agreement by reference and made a part hereof as if set forth in full. CONSULTANT shall abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. CONSULTANT shall also abide by the American Disabilities Act and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. CONSULTANT shall give written notice of its obligations under this clause to labor organizations with which it has a collective bargain or other agreement. CONSULTANT shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work pursuant to this Agreement.

20. NOTICES AND REPORTS.

20.1. All notices and reports pursuant to this Agreement shall be in writing and may be given by personal delivery or by mailing by certified mail, addressed as follows:

**ICTC**

Attn: Executive Director  
Imperial County Transportation Commission  
1503 N. Imperial Ave., Ste 104  
El Centro, CA 92243

**CONSULTANT**

Attn: Project Manager

20.2. All notices and reports pursuant to this Agreement may be given by personal delivery or by mailing by certified mail at such other address as either Party may designate in a notice to the other Party given in such manner.

20.3. Any notice given by mail shall be considered given when deposited in the United States Mail, postage prepaid, addressed as provided herein.

21. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between ICTC and CONSULTANT relating to the transactions contemplated hereby and supersedes all prior or contemporaneous agreements, understandings, provisions, negotiations, representations, or statements, either written or oral.

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///

22. MODIFICATION.



1 No modification, waiver, amendment, discharge, or change of this Agreement shall be valid  
2 unless the same is in writing and signed by both parties.

3 23. PARTIAL INVALIDITY.

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

7 24. GENDER AND INTERPRETATION OF TERMS AND PROVISIONS.

8 As used in this Agreement and whenever required by the context thereof, each number, both  
9 singular and plural, shall include all numbers, and each gender shall include a gender. CONSULTANT  
10 as used in this Agreement or in any other document referred to in or made a part of this Agreement shall  
11 likewise include both singular and the plural, a corporation, a partnership, individual, firm or person  
12 acting in any fiduciary capacity as executor, administrator, trustee or in any other representative capacity  
13 or any other entity. All covenants herein contained on the part of CONSULTANT shall be joint and  
14 several if more than one person, firm or entity executes the Agreement.

15 25. WAIVER.

16 No waiver of any breach or of any of the covenants or conditions of this Agreement shall be  
17 construed to be a waiver of any other breach or to be a consent to any further or succeeding breach of  
18 the same or any other covenant or condition.

19 26. CHOICE OF LAW.

20 This Agreement shall be governed by the laws of the State of California. This Agreement is  
21 made and entered into in Imperial County, California. Any action brought by either Party with respect  
22 to this Agreement shall be brought in a court of competent jurisdiction within said County.

23 27. ATTORNEY'S FEES.

24 If either Party herein brings an action to enforce the terms thereof or declare rights hereunder,  
25 each Party in any such action, on trial or appeal, shall bear its own attorney's fees and costs.

26 ///

27 ///

28 28. AUTHORITY.

Each individual executing this Agreement on behalf of CONSULTANT represents and warrants that:

28.1. He/She is duly authorized to execute and deliver this Agreement on behalf of CONSULTANT;

28.2. Such execution and delivery is in accordance with the terms of the Articles of Incorporation or Partnership, any by-laws or Resolutions of CONSULTANT and;

28.3. This Agreement is binding upon CONSULTANT accordance with its terms.

29. COUNTERPARTS.

This Agreement may be executed in counterparts.

30. REVIEW OF AGREEMENT TERMS.

This Agreement has been reviewed and revised by legal counsel for both ICTC and CONSULTANT, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of the same or any subsequent amendments thereto.

31. NON-APPROPRIATION.

31.1. All obligations of ICTC are subject to appropriation of resources by various federal, State, and local agencies, including but not limited to the U.S. Department of Transportation (“DOT”) and the California Department of Transportation (“Caltrans”).

31.2. This Agreement is valid and enforceable only if sufficient funds are made available to ICTC for the purposes of this Project. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by Congress, State Legislature, or ICTC, and any regulations prescribed therefrom, that may affect the provisions, terms, or funding of this Agreement.

31.3. If sufficient funds for the Project are not appropriated, this Agreement may be amended or terminated in order to reflect said reduction in funding.

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32. PREVAILING WAGE.

1 32.1. CONSULTANT acknowledges that any work that qualifies as a “public work” within the  
2 meaning of California Labor Code section 1720 shall cause CONSULTANT, and its sub-  
3 consultants, to comply with the provisions of California Labor Code sections 1775 et seq.

4 32.2. When applicable, copies of the prevailing rate of per diem wages shall be on file at ICTC  
5 and available to any interested party upon request. CONSULTANT shall post copies of the  
6 prevailing wage rate of per diem wages at the Project site.

7 32.3. CONSULTANT hereby acknowledges and stipulates to the following:

8 32.3.1. CONSULTANT has reviewed and agrees to comply with the provisions of Labor  
9 Code section 1776 regarding retention and inspection of payroll records and  
10 noncompliance penalties; and

11 32.3.2. CONSULTANT has reviewed and agrees to comply with the provisions of Labor  
12 Code section 1777.5 regarding employment of registered apprentices; and

13 32.3.3. CONSULTANT has reviewed and agrees to comply with the provisions of Labor  
14 Code section 1810 regarding the legal day’s work; and

15 32.3.4. CONSULTANT has reviewed and agrees to comply with the provisions of Labor  
16 Code section 1813 regarding forfeiture for violations of the maximum hours per day and  
17 per week provisions contained in the same chapter.

18 32.3.5. CONSULTANT has reviewed and agrees to comply with any applicable  
19 provisions for those Projects subject to Department of Industrial Relations (DIR)  
20 Monitoring and Enforcement of prevailing wages. ICTC hereby notifies CONSULTANT  
21 that CONSULTANT is responsible for complying with the requirements of Senate Bill  
22 854 (SB854) regarding certified payroll record reporting. Further information concerning  
23 the requirements of SB854 is available on the DIR website located at:  
24 <http://www.dir.ca.gov/Public-Works/PublicWorksEnforcement.html>.

25 33. WORKERS’ COMPENSATION CERTIFICATION.

26 33.1. Prior to the commencement of work, CONSULTANT shall sign and file with ICTC the  
27 following certification: “I am aware of the provisions of California Labor Code §§3700 et seq.  
28 which require every employer to be insured against liability for workers’ compensation or to

undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

33.2. This certification is included in this Agreement and signature of the Agreement shall constitute signing and filing of the certificate.

33.3. CONSULTANT understands and agrees that any and all employees, regardless of hire date, shall be covered by Workers’ Compensation pursuant to statutory requirements prior to beginning work on the Project.

33.4. If CONSULTANT has no employees, initial here: \_\_\_\_\_.

34. DISADVANTAGED BUSINESS ENTITY COMPLIANCE.

34.1. When applicable, CONSULTANT represents and warrants that it has fully read the applicable Disadvantaged Business Enterprise (“DBE”) requirements pertaining to this Project and has fully and accurately completed any and all required DBE forms.

34.2. CONSULTANT represents and warrants that it will comply with all applicable DBE requirements for this Project.

34.3. CONSULTANT shall comply with any applicable DBE provisions attached hereto as **Exhibit “D”** and incorporated by this reference as though fully set forth herein.

34.4. If any state or federal funds are withheld from ICTC or not reimbursed to ICTC due to CONSULTANT’s failure to either comply with the DBE requirements set forth in the RFP and this Agreement, or to meet the mandatory DBE goals as determined by ICTC, Caltrans, the Federal Highway Administration, and/or any other state or federal agency contributing funds to the Project, then CONSULTANT shall fully reimburse ICTC the amount of funding lost. ICTC reserves the right to deduct any such loss in funding from the amount of compensation due to CONSULTANT under this Agreement.

34.5. In addition to the above, CONSULTANT’s failure to comply with DBE requirements/goals shall subject it to such sanctions as are permitted by law, which may include, but shall not be limited to the following:

34.5.1. Termination of this Agreement;

34.5.2. Withholding monthly progress payments;

34.5.3. Compensatory, special, incidental, liquidated and other damages; and/or

34.5.4. Designation of CONSULTANT as “nonresponsible,” and disqualification from bidding on future public works projects advertised by ICTC.

35. **APPENDIX E OF THE TITLE VI ASSURANCES.**

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

35.1. Pertinent Nondiscrimination Authorities:

(a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq, 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

(b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects);

(c) Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex);

(d) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;

(e) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age);

(f) Airport and Airway Improvement Act of 1982, 949 U.S.C. § 4 71, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

(g) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);

(h) Titles II and III of the Americans with Disabilities Act, which prohibit

1 discrimination on the basis of disability in the operation of public entities, public  
2 and private transportation systems, places of public accommodation, and certain  
3 testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of  
4 Transportation regulations at 49 C.F.R. parts 37 and 38;

- 5 (i) The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. §  
6 47123) (prohibits discrimination on the basis of race, color, national origin, and  
7 sex);
- 8 (j) Executive Order 12898, Federal Actions to Address Environmental Justice in  
9 Minority Populations and Low-Income Populations, which ensures discrimination  
10 against minority populations by discouraging programs, policies, and activities  
11 with disproportionately high and adverse human health or environmental effects  
12 on minority and low-income populations;
- 13 (k) Executive Order 13166, Improving Access to Services for persons with Limited  
14 English Proficiency, and resulting agency guidance, national origin  
15 discrimination includes discrimination because of limited English proficiency  
16 (LEP). To ensure compliance with Title VI, you must take reasonable steps to  
17 ensure that LEP persons have meaningful access to your programs (70 Fed. Reg.  
18 at 74087 to 74100);
- 19 (l) Title IX of the Education Amendment of 1972, as amended, which prohibits you  
20 from discriminating because of sex in education programs or activities (20 U.S.C.  
21 1681 et seq).

22 36. ADDITIONAL FEDERAL CLAUSES.

23 During the performance of this Agreement, the CONSULTANT, for itself, its assignees, and  
24 successors in interest, agrees to comply with the Additional Federal Clauses attached hereto as  
25 **Exhibit “E”** and incorporated by this reference as though fully set forth herein.  
26  
27  
28

1 **IN WITNESS WHEREOF**, the Parties have executed this Agreement on the day and year first above  
2 written.

3 **IMPERIAL COUNTY TRANSPORTATION COMMISSION:**

4  
5  
6 \_\_\_\_\_  
7 Chair

8 **ATTEST:**

9  
10  
11 \_\_\_\_\_  
12 **CRISTI LERMA**  
Secretary to the Commission

13 **CONSULTANT:**

14  
15  
16 By: \_\_\_\_\_

17  
18 **APPROVED AS TO FORM:**

19 **COUNTY COUNSEL**

20  
21 By: \_\_\_\_\_  
22  
23  
24  
25  
26  
27  
28

## **Additional Federal Clauses**

### **COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

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

### **RETENTION OF RECORD/AUDITS**

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and ICTC 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. ICTC, 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.

### **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 Executive Director.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Executive Director 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 Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, 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.

## **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.

#### **Prompt Payment of Withheld Funds to Subconsultants**

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

The LOCAL AGENCY shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY of the contract work and pay retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the LOCAL AGENCY. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

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

#### **PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING**

The CONSULTANT certifies, to the best of his or her knowledge and belief, that:

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

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

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

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

#### **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 List System maintained by the U.S. General Services Administration are to be determined by FHWA.

#### **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.

#### **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.

#### **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.

#### **DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

- A. CONSULTANT, subrecipient (LOCAL AGENCY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, the LOCAL AGENCY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.
- B. CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate Good Faith Efforts (GFE) to meet this goal. It is CONSULTANT's responsibility to verify at date of proposal opening that the DBE firm is certified as a DBE by using the California Unified Certification Program (CUCP) database and possesses the most specific available North American Industry Classification System (NAICS) codes and work code applicable to the type of work the firm will perform on the contract. Additionally, the CONSULTANT is responsible to document the verification record by printing out the CUCP data for each DBE firm. A list of DBEs certified by the CUCP can be found at <https://dot.ca.gov/programs/civil-rights/dbe-search>.
- C. All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:
  - 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
  - 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
  - Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTS who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.

The goal for DBE participation for this AGREEMENT is **12%**. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in Exhibit 10- O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

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

#### **D. Contract Assurance**

Under 49 CFR 26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

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

#### **E. Termination and Replacement of DBE Subconsultants**

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

##### **Termination of DBE Subconsultants**

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

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The LOCAL AGENCY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the LOCAL AGENCY's bond requirements.



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

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

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

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

### Replacement of DBE Subconsultants

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

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

1. Submit a request to replace a DBE with other forces or material sources in writing to the LOCAL AGENCY which must include:

- a. Description of remaining uncommitted work item made available for replacement DBE solicitation and participation.
- b. The proposed DBE replacement firm's business information, the work they have agreed to perform, and the following:
  - Description of scope of work and cost proposal
  - Proposed subcontract agreement and written confirmation of agreement to perform on the Contract
  - Revised Exhibit 10-O2: Consultant Contract DBE Commitment

2. If CONSULTANT has not identified a DBE replacement firm, submits documentation of CONSULTANT's GFEs to use DBE replacement firms within seven (7) days of LOCAL AGENCY's authorization to terminate the DBE. CONSULTANT may request the LOCAL AGENCY's approval to extend this submittal period to a total of 14 days. Submit documentation of actions taken to find a DBE replacement firm, such as:

- Search results of certified DBEs available to perform the original DBE work identified and or other work CONSULTANT had intended to self-perform, to the extent needed to meet DBE commitment
- Solicitations of DBEs for performance of work identified
- Correspondence with interested DBEs that may have included contract details and requirements
- Negotiation efforts with DBEs that reflect why an agreement was not reached
- If a DBE's quote was rejected, provide reasoning for the rejection, such as why the DBE was unqualified for the work, or why the price quote was unreasonable or excessive
- Copies of each DBE's and non-DBE's price quotes for work identified, as the LOCAL AGENCY may contact the firms to verify solicitation efforts and determine if the DBE quotes are substantially higher
- Additional documentation that supports CONSULTANT's GFE

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

### Commitment and Utilization

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

The LOCAL AGENCY shall request CONSULTANT to:

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

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

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

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

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

### Commercially Useful Function

DBEs must perform a commercially useful function (CUF) under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBE value of work will only count toward the DBE commitment if the DBE performs a CUF. A DBE performs a CUF when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with

respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.

L. For projects awarded on or after March 1, 2020, but before September 1, 2023: after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to [business.support.unit@dot.ca.gov](mailto:business.support.unit@dot.ca.gov) with a copy to local administering agencies.

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

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

#### **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 Termination clause within the AGREEMENT, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

#### **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.

## **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.

## **SAFETY**

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

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

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

## **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 federalaid 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.

#### **CONFIDENTIALITY OF DATA**

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

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

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

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

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

F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to



reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

#### **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.

#### **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.

#### **PROMPT PAYMENT**

##### **A. PROMPT PAYMENT FROM LOCAL AGENCY TO CONSULTANT**

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

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

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

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

The LOCAL AGENCY must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE

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

## **TITLE VI ASSURANCES**

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

- a. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
  - ii. cancellation, termination or suspension of the Agreement, in whole or in part.

Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C.1681 et seq).

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

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

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

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

**2. AUTHORITY AND RESPONSIBILITY**

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

**3. SUBMISSION OF DBE INFORMATION**

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

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

**4. DBE PARTICIPATION GENERAL INFORMATION**

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

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

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

## 5. COUNTING DBE PARTICIPATION

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

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

## 6. RESOURCES

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

## Attachment C

### Required Certification by Consultant with Proposal

**EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS**

Cost Proposal Due Date \_\_\_\_\_ PE/CE

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

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

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

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

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

Publications	Dates of Advertisement

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

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



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

Items of Work	Proposer or Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract
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- D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

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

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

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

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

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

Name of Agency/Organization

Method/Date of Contact

Results


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

**SAMPLE COST PROPOSAL 2**

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

Note: Mark-ups are Not Allowed

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

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

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

**BILLING INFORMATION**

**CALCULATION INFORMATION**

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

(Add pages as necessary)

**NOTES:**

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

**SAMPLE COST PROPOSAL 2**

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

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

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

<b>SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)</b>				
<b>Description of Item</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Total</b>
Subconsultant 1:				
Subconsultant 2:				
Subconsultant 3:				
Subconsultant 4:				
Subconsultant 5:				

Note: Add additional pages if necessary.

**NOTES:**

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

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

**SAMPLE COST PROPOSAL 2**

**Certification of Direct Costs:**

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

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

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

**Prime Consultant or Subconsultant Certifying:**

Name: \_\_\_\_\_ Title\*: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date of Certification (mm/dd/yyyy): \_\_\_\_\_  
Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Address: \_\_\_\_\_

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

List services the consultant is providing under the proposed contract:

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**EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT**

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

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

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

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

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

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

**LOCAL AGENCY SECTION**

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



## EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

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

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

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

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

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

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

## Attachment D

Required Certification by Consultant and ICTC  
after Contract Execution

**EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT**

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

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

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

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

**INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT****CONSULTANT SECTION**

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

**LOCAL AGENCY SECTION**

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

## Final Report-Utilization of Disadvantaged Business Enterprises (DBE) and First-Tier Subcontractors

**EXHIBIT 17-F FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS**

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency		4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount	
8. Contract Item Number	9. Description of Work, Service, or Materials Supplied	10. Company Name and Business Address	11. DBE Certification Number	12. Contract Payments		13. Date Work Completed	14. Date of Final Payment
				Non-DBE	DBE		
15. ORIGINAL DBE COMMITMENT AMOUNT      \$ _____				16. TOTAL			

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subcontractors/subconsultants were used on the contract, indicate on the form.

**I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT**

17. Contractor/Consultant Representative's Signature		18. Contractor/Consultant Representative's Name		19. Phone		20. Date	
<b>I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED</b>							
21. Local Agency Representative's Signature		22. Local Agency Representative's Name		23. Phone		24. Date	

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

**ADA NOTICE:** For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

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**INSTRUCTIONS – FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS**

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials provided. Indicate all work to be performed by DBEs including work performed by the prime contractor/consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 10. Company Name and Business Address** - Enter the name, address, and phone number of all subcontracted contractors/consultants. Also, enter the prime contractor/consultant's name and phone number, if the prime is a DBE.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. Leave blank if subcontractor is not a DBE.
- 12. Contract Payments** - Enter the subcontracted dollar amount of the work performed or service provided. Include the prime contractor/consultant if the prime is a DBE. The Non-DBE column is used to enter the dollar value of work performed by firms that are not certified DBE or for work after a DBE becomes decertified.
- 13. Date Work Completed** - Enter the date the subcontractor/subconsultant's item work was completed.
- 14. Date of Final Payment** - Enter the date when the prime contractor/consultant made the final payment to the subcontractor/subconsultant for the portion of work listed as being completed.
- 15. Original DBE Commitment Amount** - Enter the "Total Claimed DBE Participation Dollars" from Exhibits 15-G or 10-O2 for the contract.
- 16. Total** - Enter the sum of the "Contract Payments" Non-DBE and DBE columns.
- 17. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 18. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 19. Phone** - Enter the area code and telephone number of the person signing the form.
- 20. Date** - Enter the date the form is signed by the contractor's preparer.
- 21. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 23. Phone** - Enter the area code and telephone number of the person signing the form.
- 24. Date** - Enter the date the form is signed by the Local Agency Representative.

**EXHIBIT 17-O DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION STATUS CHANGE**

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency		4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount	
8. Contract Item Number	9. DBE Contact Information		10. DBE Certification Number	11. Amount Paid While Certified	12. Certification/Decertification Date (Letter Attached)	13. Comments	

If there were no changes in the DBE certification of subcontractors/subconsultants, indicate on the form.

**I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT**

14. Contractor/Consultant Representative's Signature		15. Contractor/Consultant Representative's Name		16. Phone	17. Date
<b>I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED</b>					
18. Local Agency Representative's Signature		19. Local Agency Representative's Name		20. Phone	21. Date

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

**ADA NOTICE:** For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.



**INSTRUCTIONS –DISADVANTAGED BUSINESS ENTERPRISES (DBE)  
CERTIFICATION STATUS CHANGE**

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted contractors/consultants.
- 10. DBE Certification Number** - Enter the DBE's Certification Identification Number.
- 11. Amount Paid While Certified** - Enter the actual dollar value of the work performed by those subcontractors/subconsultants during the time period they are certified as a DBE.
- 12. Certification/Decertification Date (Letter Attached)** - Enter either the date of the Decertification Letter sent out by the Office of Business and Economic Opportunity (OBE) or the date of the Certification Certificate mailed out by OBE.
- 13. Comments** - If needed, provide any additional information in this section regarding any of the above certification status changes.
- 14. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 15. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 16. Phone** - Enter the area code and telephone number of the person signing the form.
- 17. Date** - Enter the date the form is signed by the contractor's preparer.
- 18. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 19. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 20. Phone** - Enter the area code and telephone number of the person signing the form.
- 21. Date** - Enter the date the form is signed by the Local Agency Representative.

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

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

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

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

Consultant \_\_\_\_\_

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

**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**LABOR COSTS**

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

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

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

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

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

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

j) **TOTAL INDIRECT COSTS** [(e) + (g) + (i)] \_\_\_\_\_**FIXED FEE**k) **TOTAL FIXED FEE** [(c) + (j)] x fixed fee \_\_\_\_\_ ] \_\_\_\_\_**l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)**

Description of Item	Quantity	Unit	Unit Cost	Total
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

l) **TOTAL OTHER DIRECT COSTS** \_\_\_\_\_**m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)**

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

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

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

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

m) **TOTAL SUBCONSULTANTS' COSTS** \_\_\_\_\_n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS** [(l)+(m)] \_\_\_\_\_**TOTAL COST** [(c) + (j) + (k) + (n)] \_\_\_\_\_**NOTES:**

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

**EXHIBIT 10-H1 COST PROPOSAL** Page 2 of 3**COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS**

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

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

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

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

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

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

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

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

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

## EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

**Certification of Direct Costs:**

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

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

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

**Prime Consultant or Subconsultant Certifying:**

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

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

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

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

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

List services the consultant is providing under the proposed contract:

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

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

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

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

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

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

## BILLING INFORMATION

## CALCULATION INFORMATION

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

(Add pages as necessary)

NOTES:

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

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

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

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

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

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	Quantity	Unit	Unit Cost	Total
Subconsultant 1:				
Subconsultant 2:				
Subconsultant 3:				
Subconsultant 4:				
Subconsultant 5:				

Note: Add additional pages if necessary.

NOTES:

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

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

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

**Certification of Direct Costs:**

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

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

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

**Prime Consultant or Subconsultant Certifying:**

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

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

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

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

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

List services the consultant is providing under the proposed contract:

[illegible]



**EXHIBIT 10-H3 COST PROPOSAL** Page 1 of 2COST PER UNIT OF WORK CONTRACTS  
(GEOTECHNICAL AND MATERIAL TESTING)

Note: Mark-ups are Not Allowed

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

Consultant \_\_\_\_\_

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

**Unit/Item of Work:**

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

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

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

Description of Item	Quantity	Unit	Unit Cost	Total
Subconsultant 1:				
Subconsultant 2:				
Subconsultant 3:				
Subconsultant 4:				
Subconsultant 5:				

Note: Attach additional pages if necessary.

**TOTAL COST PER UNIT OF WORK** \_\_\_\_\_**NOTES:**

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

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

**Certification of Direct Costs:**

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

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

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

**Prime Consultant or Subconsultant Certifying:**

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

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

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

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

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

List services the consultant is providing under the proposed contract:

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