



REQUEST FOR QUALIFICATIONS (RFQ)

ON-CALL PROJECT SUPPORT SERVICES FOR NATIONAL CITY'S CAPITAL IMPROVEMENT PROGRAM (CIP)

May 1, 2019

I. INTRODUCTION

The City of National City's Engineering & Public Works Department seeks Statements of Qualifications (SOQs) from interested consultant firms to provide on-call project support services for National City's Capital Improvement Program (CIP) and other professional services. Disciplines are listed under Section III "Scope of Services."

This RFQ describes the minimum required scope of services, the consultant evaluation and selection process, and the minimum information that must be included in the SOQ. Failure to submit information in accordance with the RFQ requirements and procedures may be cause for disqualification.

A non-mandatory information session will be held on Tuesday, May 14, 2019 from 3:00 P.M. to 5:00 P.M. at the Martin Luther King Jr. Community Center 140 E. 12th Street, National City, CA 91950.

Three signed hardcopies of the SOQ shall be submitted in one sealed packaged to the Office of the City Engineer and one high quality electronic PDF copy shall be submitted on the planet bids portal:

<https://www.planetbids.com/portal/portal.cfm?CompanyID=24103>

no later than **5:00 PM on Monday, June 10, 2019.**

Address to:

Roberto Yano, P.E.
Deputy City Engineer
City of National City
Engineering & Public Works Department
1243 National City Boulevard
National City, CA 91950

II. BACKGROUND AND DESCRIPTION

The City of National City's Capital Improvement Program, or CIP, represents a "sliding" five-year budgeting process for establishing the City's capital priorities and financing plan. The first year of the five-year program represents the "approved" capital budget, which is incorporated into the City's annual budget. The CIP, which is managed by the Engineering & Public Works Department under the direction of the City Engineer, addresses the repair, replacement and expansion of the City's physical infrastructure system, which includes, for example, streets, sewers, storm drains, lighting, buildings and parks.

CIP projects are categorized by project type as follows:

Infrastructure - streets, storm drains, sewer systems, street lighting, traffic signals and communications equipment, sidewalks and pedestrian curb ramps for Americans with Disabilities Act (ADA) compliance;

Parks and Facilities - City offices, warehouses, public works yard and support structures, police and fire stations, community centers, public libraries, and information technology (computers, data storage, public safety cameras, and communications equipment); Community parks and amenities such as ball fields, restrooms, lighting, landscaping, walking paths and information technology; health and quality of life facilities such as recreation centers, municipal swimming pool, gymnasium and aquatic center;

Housing - site infrastructure for infill development projects that provide housing opportunities for individuals and families at all income levels.

The City's current 5-Year CIP is projected to deliver over \$70 million in major public improvements. Most of the City's capital projects are funded through active Federal, State and Regional "competitive" grants. Projects include corridor enhancements for traffic calming, pedestrian and bicycle safety, and smart growth redevelopment; road diets and complete streets; safe routes to school; traffic signal modifications; street lights; sewer replacement and upsizing; storm drain improvements and implementation

of LID measures for treatment of urban runoff; environmental remediation; ADA enhancements; mechanical, electrical, plumbing and energy efficiency upgrades for City-owned buildings; and enhancements to Community parks. Additional information on the City's CIP including project descriptions, budgets and funding is available at: <http://nationalcityprojects.com/>.

In order to design, manage and deliver these projects on schedule and within budget, the Engineering & Public Works Department seeks SOQs from licensed professionals from a broad range of disciplines as outlined in Section III "Scope of Services." In addition, the Department seeks professional support services to assist staff with day-to-day operations such as plan and map reviews, permit tracking, inspections, and community outreach.

The total number of on-call contracts awarded will depend on the quantity, quality and diversity of SOQs received. In general, the City intends to award a minimum of two on-call contracts per discipline. However, the number of on-call contracts may be less if the services provided cover multiple disciplines.

On-call contracts will be three years in length, with the option to extend for two, one year extensions, and will range in value from \$50,000 to \$2,000,000 depending on qualifications, scope of services offered, capital needs and available funding.

Those private consulting firms providing architectural, landscape architectural, engineering, environmental, land surveying, construction engineering, or construction project management services, with respect to a construction project, are termed A&E Consultants. A&E Consultants (both Prime and Sub-consultants) interested in providing services for the City on Federal-aid and State funded projects administered by the California Department of Transportation (Caltrans) are required to adhere to the latest provisions of the Caltrans Local Assistance Procedures Manual (LAPM), Chapter 10 Consultant Selection, which includes A&E Consultant Audit and Review Process requirements. The subsequent sections of this RFQ provide specific requirements for Consultant's interested in providing services on projects administered by Caltrans.

Disadvantaged Business Enterprises (DBEs) are encouraged to participate in the RFQ process by submitting an SOQ as a Prime Consultant, or by serving as a Sub-consultant on one or more teams.

III. SCOPE OF SERVICES

The following is a summary of professional disciplines and general scope of services, which may be applied to each discipline. Consultants may elect to submit SOQs for other disciplines based on their understanding of the City's needs, including procedures and programs to ensure compliance with State and Federal regulations.

Disciplines

- Civil Engineering
- Structural Engineering
- Mechanical Engineering
- Electrical Engineering
- Traffic Engineering
- Traffic Signal Communications Infrastructure & Systems Integration
- Traffic Data Collection (includes ADT, speed and vehicle classification counts)
- Transportation Planning (includes Active Transportation and Safe Routes to School)
- Architecture
- Landscape Architecture (includes Urban Planning & Design)
- ADA Compliance and Universal Design
- Graphic Information Systems (GIS)
- Utility Design & Coordination (includes Rule 20A Undergrounding & Joint Trench)
- Land Surveying (includes field surveying and monumentation, map reviews, preparation of plat & legal descriptions)
- Geotechnical (includes Soils & Materials Testing)
- Environmental Planning, Design & Engineering (includes CEQA/NEPA, Storm Water Quality Management Plans, SWPPPs, Storm Water LID, hydrology, site assessments and remediation)
- Environmental Compliance (includes regulatory permitting, compliance monitoring, inspections and reporting involving storm water, wastewater, air quality, hazardous materials, and occupational health and safety)
- Construction Management & Inspections (includes Certified Payroll)
- Property Management & Real Estate Services (includes brokerage, appraisals, economic analysis and other real estate services for City-owned properties and historic buildings)
- Graphic Design/Web Design
- Planning & Design
- Community Outreach
- Engineering & Project Management (includes technical analyses, site evaluations, studies, reports and presentations; project tracking; PS&E; QA/QC; plan reviews; constructability reviews and value engineering; construction bidding, construction support and responses to RFIs; and preparation of record drawings)
- Grants Management (includes researching grant opportunities, preparing grant applications, quarterly progress reports and schedule of deliverables)
- Sewer System Management (includes Financial Administration for Annual Sewer User Billing and Tax Roll Preparation)

- Capital Needs Assessments & Asset Management (includes GIS-based mapping and inventories, cost estimates and financial analysis, reports and presentations for evaluation of City infrastructure, parks and facilities)
- Building Department Support Services (includes plan checks, permit tracking, inspections, and enforcement of the CA Building Code)
- Public Relations and Government Affairs
- Economic Development Services (includes market assessments and feasibility studies, graphic design, marketing and branding)
- Housing and Real Estate Development Services (including affordable housing finance, regulatory compliance and monitoring, brokerage, appraisals, economic and policy analysis, feasibility studies, physical assessments, and other real estate services for the disposition and development of City-owned properties)
- Polling and Analysis (includes political poll analysis, data collection, and preparing reports and presentations)
- Municipal Code support services
- Fire Inspection Services (includes sprinklers and alarm systems, weed and litter abatement)

IV. GENERAL INSTRUCTIONS

A. Definitions

1. "City" refers to City of National City
2. "Department" refers to Engineering & Public Works Department
3. "Consultant" refers to respondent, firm, company, and/or team interested in participating in the RFQ process

B. Consultants shall adhere to the requirements detailed in subsequent sections of this RFQ.

C. Consultants may elect to participate in the RFQ process as follows:

1. Submit a single SOQ that focuses on one or more disciplines.
2. Submit multiple SOQs, one for each discipline or combination of disciplines.
3. Submit a single SOQ or multiple SOQs as the Prime Consultant.
4. Submit a single SOQ or multiple SOQs as the Prime Consultant, and serve as a Sub-consultant on one or more teams.

5. Serve as a Sub-consultant on one or more teams.
- D. Consultant SOQs must clearly identify the proposed discipline(s) area(s) of interest.

V. STATEMENT REQUIREMENTS

A. General

1. The SOQ shall be concise, well organized and demonstrate a clear understanding of the City's needs. The statement shall be limited to 50 one-sided pages (8 1/2 inches x 11 inches, or folded to fit these dimensions), inclusive of resumes, graphics, forms, tables, exhibits, photographs, dividers, front and back covers, cover letter, etc. Type size and margins for text pages should be in keeping with accepted standard formats for desktop publishing and processing and should result in no more than five hundred (500) words per page.
2. Consultants will be evaluated based upon the information submitted in accordance with the requirements of this RFQ.

B. Contents

Elements of SOQs submitted in response to this RFQ shall be in the following order and shall include:

1. Cover Letter

Include a 1-2 page cover letter that includes a brief background on the firm, including any unique attributes and distinguishing characteristics which would be of value to the City. The cover letter should also express why the Consultant is interested in the RFQ.

2. Executive Summary

Include a 1-2 page overview of the entire SOQ describing its most important elements.

3. Contact Information

- a. Legal name and address of company

- b. 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 this section for each member.
 - c. Address(es) of office(s) working on the project.
 - d. Name, title, address, telephone number and email address of the person to contact concerning the SOQ.
4. Familiarity with Local Environment
- a. The SOQ must include a discussion of the Consultant's understanding of National City's diverse community, including goals and policies established through the City Council's Strategic Plan, General and Specific Area Plans, 5-Year CIP, and other long-range planning documents. Consultants are encouraged to discuss their experience working in National City and/or familiarity with the City's infrastructure, social, economic and cultural resources.
5. Experience and Technical Competence
- a. Consultant SOQs must clearly identify the proposed discipline(s) of interest. Consultants may elect to submit SOQs for other disciplines not listed in Section III "Scope of Services" based on their understanding of the City's needs, including procedures and programs to ensure compliance with State and Federal regulations (e.g., environmental clearance, right-of-way clearance, and DBE).
 - b. The SOQ must include a discussion of the Consultant's staffing plan and level of personnel to be involved, their qualifications, experience, resumes, roles, and the name of the licensed professional(s) who will be in charge of approving submittals and coordinating with the City, State and other affected agencies. Provide assurance that an adequate number of qualified professionals will be available to provide the services proposed.
 - c. **The SOQ must include an organizational chart illustrating key staff and their positions.** If submitting as a team, the organizational chart must also include all Sub-consultants, their key staff and positions.

- d. Indicate the roles and responsibilities of the Prime Consultant and all Sub-consultants. **The City's evaluation will consider the Consultant's entire team. Therefore, no changes in the team composition will be allowed without prior written approval of the City.**
- e. The Consultant shall describe their experience in providing similar services by including a minimum of five successfully completed projects, on-call contracts and/or programs, highlighting the various disciplines covered and/or services provided. Include the name of the Consultant's Project Manager responsible for overseeing project / program delivery; name of the company / agency and contact information for the Project Manager for which services were provided; type of work performed; and value of contract. Projects, programs and/or services currently being performed may be submitted for consideration.
- f. The Consultant shall discuss their knowledge and understanding of Federal, State, regional and local regulations, design standards and best practices associated with each discipline.
- g. Discuss the Consultant's capabilities for developing innovative or advanced techniques for project delivery. Outline the Consultant's managerial approach to ensuring a high quality of service and effective communication. Discuss methods proposed to ensure projects will be delivered on-schedule and within budget, including QA/QC processes, project tracking and progress reports.
- h. The Consultant shall highlight the experience and technical competence of the Project Manager who will serve as the direct point of contact with the Department. Emphasis should be placed on the Project Manager's ability to:
1) successfully manage project scope, schedule and budget; 2) address unforeseen conditions and/or change order requests; 3) ensure preparation and submittal of high quality deliverables; and 4) communicate effectively with the Department, elected officials, other public agencies, and members of the Community.

- i. Prime Consultants are encouraged to highlight the experience and technical competence of their Sub-consultants.

6. Grants Management

- a. Discuss the Consultant's experience researching and applying for competitive grants. Consultants are encouraged to demonstrate their knowledge of grant opportunities within their disciplines.
- b. Consultants are encouraged to highlight notable grant awards.
- c. Discuss the Consultant's experience managing Federal, State and Regional grant-funded projects.
- d. Discuss the Consultant's experience assisting public agencies with grant reporting requirements.

7. Financial Management and Accounting Systems

a. General

- i. SOQs must discuss the Consultant's Financial Management and Accounting Systems. Discussion should include the Consultant's ability to provide detailed invoices and progress reports on a monthly basis; process for tracking and certifying employee time, materials and eligible project expenses; and system for managing project files and documents.

b. Caltrans Administered Projects

- i. For Consultants interested in providing services on Caltrans administered projects, specifically, A&E Prime Consultants with a proposed contract exceeding \$150,000, and any Sub-consultants listed on the contract, must certify the accuracy of their contract costs and adequacy of their Financial Management and Accounting Systems to ensure compliance with the following sections of the Code of Federal Regulations (CFR): 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31.

Non-A&E Consultants, and A&E Consultants providing \$150,000 or less in Federal or State funded services for the City on projects administered by Caltrans, are exempt from these specific requirements. However, the City requires "ALL" Consultants interested in contracting with the City to provide evidence confirming the accuracy of their contract costs and adequacy of their Financial Management and Accounting Systems.

8. Schedule of Fees

A schedule of fees shall not be provided in the SOQ. If the Consultant is selected by the City based on qualifications, a schedule of fees for services shall be submitted as part of contract negotiations. **SOQs that include a schedule of fees will be considered non-responsive and will be rejected.**

Refer to Section IX.H. for additional discussion on Schedule of Fees.

C. Additional Information

1. Exceptions to this RFQ

Submission of an SOQ constitutes acceptance by the Consultant of the terms and conditions contained in this RFQ.

2. Amendments to this RFQ

Consultants are cautioned that any oral statements made that may materially change any portion of this RFQ are not valid unless subsequently ratified by a formal written amendment to this RFQ. Any amendments will be posted on the City's PlanetBid's portal: <https://www.planetbids.com/portal/portal.cfm?CompanyID=24103>

The Consultant shall acknowledge receipt of each amendment to this RFQ by signing and returning the amendment with the completed SOQ. The acknowledgment must be received by the City at the time and place specified for receipt of SOQs. Attachment of amendments will not count towards the SOQ page limit requirements.

3. Requests for information (RFIs)

All RFIs regarding this RFQ shall be submitted via email to:

Tirza Gonzales, Executive Secretary
tgonzales@nationalcityca.gov

The City will only respond to written RFIs from Consultants who have received this RFQ. The City cannot respond to verbal questions submitted by telephone or in person. RFIs that may materially change any portion of this RFQ will not be accepted during the seven calendar days prior to the date set for receipt of statements. A summary of RFIs and responses will be posted on the City's PlanetBid's portal (listed below) a minimum of 72 hours prior to the time and date set for receipt of statements.

<https://www.planetbids.com/portal/portal.cfm?CompanyID=24103>

4. Disadvantaged Business Enterprises (DBE)

a. General

- i. DBEs are encouraged to participate in the RFQ process by submitting an SOQ as a Prime Consultant, or by serving as a Sub-consultant on one or more teams. Proof of DBE certification is required. A copy of a printout from the California Unified Certification Program DBE Database is acceptable. If a firm provides one service (i.e. construction management, land surveying, materials testing, etc.) the contract DBE goal is 0%. **For all other consultant firms, the local agency's contract DBE Goal is 6%.**

DBEs or firms interested in achieving DBE certification are strongly encouraged to visit the California Department of Transportation's Office of Business & Economic Opportunity (OBEO) website for more information:
<http://www.dot.ca.gov/obeo/index.html>.

- ii. DBE Information – Consultants must include Exhibit 10-01 – Consultant Proposal DBE Commitment (attached) with their SOQ. Good Faith Effort (LAPM 15-H, attached) – Required only if DBE goal is not

achieved. It is recommended that Proposer prepare and submit a GFE irrespective of meeting the DBE goal.

b. Caltrans Administered Projects

- i. This solicitation may be financed in part by Federal-aid Highway funds and therefore subject to Title 49, Code of Federal Regulations, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". The term "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged as defined in 49 CFR Part 26". To ensure equal participation for Disadvantaged Business Enterprise (DBE) groups specified in 49 CFR 26.5, DBE participation is required. Only participation by certified DBEs will count toward the contract goal for this solicitation. If a firm provides one service (i.e. construction management, land surveying, materials testing, etc.) the contract DBE goal is 0%. For all other A&E consultant firms, **the local agency's contract DBE Goal is 6%.**
- ii. DBE Information – Consultants must include Exhibit 10-01 – Consultant Proposal DBE Commitment (attached) with their SOQ. Good Faith Effort (LAPM 15-H, attached) – Required only if DBE goal is not achieved. It is recommended that Proposer prepare and submit a GFE irrespective of meeting the DBE goal.

VI. SUBMITTAL PROCESS

- A. Three signed hardcopies of the SOQ shall be submitted in one sealed package to the Office of the City Engineer and one high quality electronic PDF copy shall be submitted on the planet bids portal: <https://www.planetbids.com/portal/portal.cfm?CompanyID=24103> no later than **5:00 PM on Monday, June 10, 2019**. Firms are required to register for a PlanetBids account prior to submitting the SOQ.

Address to:

Roberto Yano, P.E.
Deputy City Engineer
City of National City
Engineering & Public Works Department
1243 National City Boulevard
National City, CA 91950

- B. SOQs are to be submitted in sealed packages with the following information clearly marked on the outside of each package:
 - 1. Name and address of Consultant
 - 2. SOQ Title
 - 3. Package Number (e.g., 1 of ____, 2 of ____, etc.). If only submitting one SOQ for a single discipline or combination of disciplines, package should be labeled as "1 of 1".
- C. SOQs shall be submitted according to the requirements set forth in this RFQ. Failure to adhere to these specifications may be cause for rejection.
- D. SOQs submitted by email or facsimile are not acceptable and will not be considered.
- E. SOQs and/or modifications received subsequent to the time and date specified above will not be considered.
- F. Late submittals, submittals to the wrong address, and/or submittals with inadequate copies will be considered non-responsive and will be rejected.
- G. Once an SOQ has been submitted, the composition of the Consultant staff / team shall not be changed without the prior written consent of the City.

VII. CONSULTANT NOMINATION AND SELECTION PROCESS

Consultants will compete by discipline. For example, a Consultant submitting under "Community Outreach" would not compete against a Consultant submitting under "Civil Engineering," unless the Civil Engineering Consultant included "Community Outreach" services and/or a "Community Outreach" Sub-consultant on their team as part of their SOQ.

- A. A Consultant Selection Committee consisting of a minimum of three members, led by the Deputy City Engineer, will be established to evaluate SOQs.
- B. SOQs will be evaluated on an as-needed basis, over a three-year period commencing on the due date for receipt of SOQs.
- C. The Committee will evaluate firms independently using the evaluation criteria established in Section VIII "Evaluation Criteria" of this RFQ. Reference checks may be conducted at any time. Qualified Consultants may be "shortlisted" for interviews.
- D. The Committee will enter into contract negotiations with top-ranked Consultants. Consultants will be required to provide a detailed scope of work and schedule of fees as part of the negotiations. Other topics of discussion will include contract terms and conditions, and insurance requirements.

The goal of contract negotiations is to agree on a final contract that delivers those services requested by the City at a fair and reasonable cost. **If the Consultant and the Committee are unable to come to mutual terms with the contract, the Committee will dismiss said Consultant and enter into negotiations with the next highest ranked Consultant.**

- E. Upon acceptance of the terms and conditions of the contract and satisfaction of all insurance requirements, the City Engineer will recommend to the City Council approval of the contract with the selected Consultant. Final authority to approve the contract rests with the City Council.
- F. Over the course of the three-year evaluation period, the Department will maintain an updated list of Consultants shortlisted for interviews, in addition to any Consultant contract awards resulting from the RFQ process. The list will be posted on the Department's website at:
<http://www.nationalcityca.gov/city-government/engineering-public-works/engineering-division/capital-improvement-projects-cip>

VIII. EVALUATION CRITERIA

Each SOQ that satisfies the Statement Requirements will be evaluated based on the following criteria:

A.	Knowledge of Local Environment	20%	
B.	Experience and Technical Competence	50%	
C.	Grants Management	20%	
D.	Financial Management and Accounting System	10%	
		<hr/>	
		Total	100%

IX. DECLARATIONS AND SPECIAL CONDITIONS

- A. Reservation of Rights
 - 1. Issuance of this RFQ and subsequent receipt of statements does not obligate the City in any way to engage any Consultant, nor does it commit the City to award any contracts.
 - 2. The City retains sole discretion to evaluate statements and make awards to Consultants the City deems to be most responsive and qualified to provide the services requested.
 - 3. The City reserves the right to request additional information and/or clarification from any or all respondents to this RFQ.
 - 4. The City reserves the right to reject any or all statements, wholly or in part, at any time and for any or no reason, without penalty.
 - 5. The City reserves the right to withdraw this RFQ and/or abandon the Consultant evaluation and selection process, for any or no reason, at any time prior to the actual execution of a contract with a Consultant; furthermore, the City shall bear no financial or other responsibility in the event of such action.
 - 6. The City reserves the right to waive any irregularities or informalities with this RFQ or the corresponding Consultant evaluation and selection process.

7. The City reserves the right to make changes to this RFQ, for any or no reason, including but not limited to: submittal requirements, submittal date, and Consultant evaluation and selection process. If the City makes any changes contemplated in this subsection, notice of such changes will be posted on PlanetBids and communicated to all entities who submitted an SOQ.
8. The City reserves the right to negotiate any and all final terms and conditions, including length, scope of services, and compensation, of any contracts entered into with qualified Consultants.
9. The City does not accept any financial responsibility for costs incurred by the Consultant in the preparation of a response to this RFQ or participation in the evaluation and selection process.
10. The City is not responsible for statements which are delinquent, lost, incorrectly marked, sent to the wrong address, or sent by mail or courier service and not signed for by the City.

B. Nonconforming Terms and Conditions

Any statement that includes terms and conditions that do not conform to the terms and conditions of this RFQ or subsequent contract(s) for professional services is subject to rejection as non-responsive. The City reserves the right to permit the Consultant to withdraw non-conforming terms and conditions from its statement prior to action taken by the City Council to award a contract.

C. Changes to Scope of Services

The City may materially change the scope of services through additions, deletions, or other revisions by way of written amendment to this RFQ, signed by the City Engineer. Any such written amendments will be posted on PlanetBids and communicated to all entities who submitted an SOQ. The City may waive the written requirement for a variation in the scope of services if, in the opinion of the City, such variation does not materially change the item or its performance within parameters acceptable to the City.

D. Conflict of Interest

For Conflict of Interest purposes, all Consultants and their Sub-consultants are defined as “public officials” by Government Code Section 82048(a) and 2 CCR 18700(c)(1). Accordingly, Consultants and their Sub-

consultants shall adhere to the City's terms and conditions regarding potential conflicts of interest at all times during the RFQ process and if the Consultant enters into a contract with the City. Submission of an SOQ constitutes acceptance by the Consultant of the terms and conditions of the Political Reform Act and the National City Conflict of Interest Code. The Consultant shall immediately disqualify itself from the RFQ process, and shall not use its official position to influence, attempt to influence, or affect a decision in any way, any matter coming before the City in which the Consultant has a financial interest as defined in Government Code Section 87103 and also as described in 2 CCR Section 18704. In responding to this RFQ, the Consultant represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the City.

E. Public Information

Consultant SOQs and related correspondence, reports, schedules, exhibits and other documentation submitted in response to this RFQ will become property of the City and a matter of public record. All documents submitted in response to this RFQ will be subject to disclosure if requested by a member of the public. There are a very limited number of narrow exceptions to these disclosure requirements. Budgets and cost proposals submitted by Consultants shall not be considered confidential or proprietary and may be subject to disclosure.

F. Applicable Laws

Any contracts awarded shall be governed in all respect by the laws of the State of California, and any litigation related to the contract or this RFQ shall be brought in the State of California, with a venue of the San Diego Superior Courts. Consultants awarded contracts with the City shall comply with all applicable Federal, State, and local laws and regulations.

G. Contract for Professional Services

1. General

- a. Consultants selected for contract award will be required to sign a Standard Professional Services Agreement, and to provide all other required certifications and documentation within fifteen (15) calendar days of notification of selection. Failure to comply with this timeframe may be cause for rejection of contract award.

2. Caltrans Administered Projects
 - a. Consultants selected for contract award will be required to sign a Standard Professional Services Agreement, LAPM Exhibit 10-R A&E Sample Contract Language and to provide all other required certifications and documentation including AASTHO Internal Control Questionnaire, Appendix B within fifteen (15) calendar days of notification of selection. Failure to comply with this timeframe may be cause for rejection of contract award. Selected Consultant shall comply with Chapter 10.3 of the Local Assistance Procedures Manual regarding the A&E Consultant Contract Audit and Review process. LAPM Exhibit 10-A, A&E Consultant Audit Request Letter and Checklist must be completed and approved by Caltrans Audits and Investigations (A&I) prior to contract execution.

H. Schedule of Fees

1. General
 - a. Exhibit "A" to the Standard Professional Services Agreement shall include a detailed Scope of Work for services provided and a Schedule of Fees. The Schedule of Fees shall include a comprehensive list of positions and labor rates for all services provided by the prime consultant and each sub-consultant. All necessary resources including labor, equipment, materials, incidental reports and related calculations, and transportation required to provide project services shall be included.

The Schedule of Fees shall remain fixed throughout the term of the contract, unless formally amended by City Council. "Mark-ups" by the prime consultant for sub-consultant services will not be accepted.

2. Caltrans Administered Project
 - a. Exhibit "A" to the Standard Professional Services Agreement shall include a detailed Scope of Work for services provided and a Schedule of Fees. The Schedule of Fees shall include a comprehensive list of positions and labor rates for all services provided by the prime consultant and each sub-consultant. Cost proposals (see

LAPM Exhibit 10-H2: Sample Cost Proposal) shall include a detailed scope of work, schedule of deliverables, “not-to-exceed” cost estimate, costs of materials, direct salaries, payroll additions, other direct costs, indirect costs, fees, and backup calculations. If the contract involves sub-consultants, the prime consultant must include a separate cost proposal for each sub-consultant. Each sub-consultant’s cost proposal must follow the same format as the prime consultant’s cost proposal. All necessary resources including labor, equipment, materials, incidental reports and related calculations, and transportation required to provide project services shall be included.

The Schedule of Fees shall remain fixed throughout the term of the contract, unless formally amended by City Council. “Mark-ups” by the prime consultant for sub-consultant services will not be accepted.

I. Insurance Requirements

Consultants selected for contract award will be required to meet insurance requirements established in the contract and must provide insurance certificates evidencing such coverage within fifteen (15) calendar days of notification of selection. Failure to comply with this timeframe may be cause for rejection of contract award.

The Consultant selected shall maintain insurance in full force and effect during the entire period of performance under the contract at the Consultant’s sole expense. Failure to do so shall be cause for termination of the contract.

All policies must have a thirty (30) day non-cancellation clause giving the City’s Risk Manager thirty (30) days prior written notice if a policy is cancelled. The City reserves the right to review insurance requirements and to require more or less coverage depending on the assessment of risk, the Consultant’s past experience, and the availability and affordability of increased liability insurance coverage.

Any aggregate insurance limits must apply solely to the contract for professional services. If required insurance coverage is provided on a “claims made” rather than “occurrence” form, then the entity/organization shall maintain such insurance coverage for three years after the expiration of the term (and any extensions) of the contract.

J. Task Order Procedures

1. General

- a. If a contract for on-call professional support services is awarded, the Consultant must submit proposals for individual task orders in a timely manner. Proposals shall include a detailed scope of work, schedule of deliverables and “not-to-exceed” cost estimate. Based on the desired scope of work for each task order, the City Engineer or Project Manager may solicit proposals from multiple on-call consultants to compare costs and qualifications in order to obtain the best value for the City. Upon approval of a consultant proposal, the City Engineer will issue a Notice to Proceed. Consultants will only receive compensation for actual work performed on a time and materials basis, within the limits of the “not-to-exceed” cost estimate. The cost to prepare project and/or task order proposals shall be borne by the Consultant at their sole expense.

2. Caltrans Administered Project

- a. If a contract for on-call professional support services is awarded, the Consultant must submit proposals for individual task orders within one week. The consultant shall only perform work that is assigned in an authorized Task Order and an award of a contract does not guarantee any Task Orders will be issued. Work shall not begin until the Task Order has been approved by the Contract Administrator. Cost proposals (see LAPM Exhibit 10-H2: Sample Cost Proposal) shall include a detailed scope of work, schedule of deliverables, “not-to-exceed” cost estimate, costs of materials, direct salaries, payroll additions, other direct costs, indirect costs, fees, and backup calculations. The Deputy City Engineer or Project Manager will solicit proposals from multiple on-call consultants to compare competence and qualifications. Upon approval of a consultant proposal, the Deputy City Engineer will issue a Notice to Proceed. The cost to prepare project and/or task order proposals shall be borne by the Consultant at their sole expense.

Upon award and through completion of the project, the successful proposing Consultant will be required to follow applicable federal-aid requirements and shall complete and submit with the agreement the following form at the time of award: Local Agency Proposer DBE Information (Consultant Contracts) (LAPM 10-02).

K. Schedule

The Consultant agrees, if selected, that the Consultant shall include a schedule of deliverables for each task order.

L. Method of Payment

The compensation for the Consultant shall be based on specific rates of compensation for actual work performed at the hourly rates specified in the Consultant's Schedule of Fees, within the limits of the "not-to-exceed" cost estimate.

M. Independent Contractor Status

The Consultant agrees, if selected, that the Consultant shall perform the services as independent contractor(s) and not employee(s) of the City. The City shall not be considered the Consultant's employer. The Consultant understands, if selected, that the Consultant shall have the sole responsibility for determining the manner and means of providing services, except as outlined in the Standard Professional Services Agreement and its attachments or exhibits.

N. Indemnification

The Consultant agrees, if selected, to defend, indemnify and hold harmless the City and all its respective officers and employees from any and all liability, claims, costs, including reasonable attorney's fees, demands, damages, expenses, and causes of action as outlined in the contract.

O. Examination of Solicitation

The Consultant understands that the information provided herein is intended solely to assist the Consultant in submittal preparation. To the best of the City's knowledge, the information provided is accurate. However, the City does not warrant such accuracy, and any errors or omissions subsequently determined will not be construed as a basis for

invalidating this solicitation. Further, by submitting a response to this solicitation, the Consultant represents that they have thoroughly examined and become familiar with the requirements of this solicitation and is capable of performing quality work to achieve the objectives of the Department and the City.

P. Protest Procedures for Procurements

1. Protests Before SOQ Due Date

- a. Any protest relating to the form or content of the solicitation must be submitted in writing to the Deputy City Engineer no later than 5:00 pm on the seventh calendar day after the date the solicitation or amendment with the revised content was released to the public by the City. Failure to file a protest concerning the content of the solicitation or amendment prior to this deadline constitutes a waiver of any protest on these grounds.

2. Protests Subsequent to SOQ Due Date

- a. After Proposers are shortlisted and/or selected for negotiations, notices will be sent to all relevant Proposers. Protests relating to failure to make the shortlist must be submitted in writing to the Deputy City Engineer no later than 5:00 pm on the seventh calendar day following protester's receipt of a notice regarding the shortlisting.

3. Protest Contents

- a. The protest must:
 - i. Be filed in writing;
 - ii. Clearly identify the specific alleged irregularity or other basis for the protest;
 - iii. Specify, in detail, the factual and legal grounds for the protest; and
 - iv. Include all relevant supporting documentation with the protest at time of filing.

If the protest does not meet all of these requirements, the City may reject it without further review.

If the protest is timely and complies with all of the above requirements, the Deputy City Engineer, or other designee, shall review the protest, and all other relevant information. The City will provide a written response to the protestor.

The procedure and time limits set forth in this section are mandatory and are the sole and exclusive remedy in the event of a bid protest. Failure to comply with these procedures shall constitute a failure to exhaust administrative remedies and a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings.

Q. OWNERSHIP OF DOCUMENTS.

The Memoranda, Reports, Maps, Computer-Aided Design (CAD) files, Geographic Information System (GIS) files, Drawings, Mylar Plans, Maps, Plans, Specifications, Certified Payroll, and other documents prepared by the Consultant for this project, whether paper or electronic, shall become the property of the City for use with respect to this project, and shall be turned over to the City upon completion of the project, or any phase thereof.

R. RETENTION OF RECORD/AUDITS

1. General

- a. If this contract exceeds ten-thousand dollars (\$10,000), the parties shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the contract, per Government Code Section 8546.7.

2. Caltrans Administered Project

- a. For the purpose of determining compliance with Gov. Code § 8546.7, the consultant, sub-consultants, and City shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the Contract including, but not limited to, the costs of administering the Contract. All parties, including the Consultant's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the Contract period and for three (3) years from the date of final

payment under the Contract. City, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the consultant, sub-consultants, and the consultant's Independent CPA, that are pertinent to the contract for audits, examinations, work paper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

X. ATTACHMENTS

- A. Exhibit 10-01 – Consultant Proposal DBE Commitment
- B. Exhibit 10-02 – Consultant Contract DBE Commitment
- C. Exhibit 15-H – DBE Information – Good Faith Efforts
- D. Exhibit D – Standard Professional Services Agreement
- E. Exhibit 10-R – A&E Sample Contract Language
- F. Exhibit 10-H2 – Sample Cost Proposal
- G. Exhibit G – AASHTO Internal Control Questionnaire, Appendix B

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

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

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	%
17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____ 20. Consultant's Ranking after Evaluation: _____	<p>IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.</p> <p>_____ 12. Preparer's Signature</p> <p>_____ 14. Preparer's Name</p> <p>_____ 16. Preparer's Title</p> <p>_____ 13. Date</p> <p>_____ 15. Phone</p>		
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. _____ _____ _____			

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-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: City of National City 2. Contract DBE Goal: 6%
3. Project Description: On-Call Project Support Services
4. Project Location: Project locations will be identified as projects materialize.
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
Local Agency to Complete this Section			\$ %
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			IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. _____ 15. Preparer's Signature 16. Date _____ 17. Preparer's 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.

EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS

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

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) business days from 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	Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract

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

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

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

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

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

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

Name of Agency/Organization	Method/Date of Contact	Results

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

**AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY
AND
(IF INCORPORATED, PLS INCLUDE "INC." IN CO. NAME.)
(PLS USE FULL LEGAL COMPANY NAME)**

THIS AGREEMENT is entered into on this _____ day of _____, 20____, by and between the CITY OF NATIONAL CITY, a municipal corporation (the "CITY"), and _____ (all caps) _____, a _____ (insert which it is: corporation, partnership, or sole proprietor) (the "CONSULTANT").

R E C I T A L S

WHEREAS, the CITY desires to employ a CONSULTANT to provide _____ (proved a good description).

WHEREAS, the CITY has determined that the CONSULTANT is a (*delete and insert business description*) and is qualified by experience and ability to perform the services desired by the CITY, and the CONSULTANT is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The CITY agrees to engage the CONSULTANT to [do what?], and the CONSULTANT agrees to perform the services set forth here in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services shall be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **EFFECTIVE DATE AND LENGTH OF AGREEMENT.** This Agreement will become effective on [INSERT A DATE] The duration of this Agreement is for the period of _____ through _____. Completion dates or time durations for specific portions of the project are set forth in Exhibit " _ ". This Agreement may be extended by mutual agreement upon the same terms and conditions for an additional one (1) year term. The Parties may exercise up to three one-year extensions. Any extension of this Agreement must be approved in writing by the [insert either City Council or City Manager].

3. **SCOPE OF SERVICES.** [PROVIDE GENERAL DESCRIPTION OF WORK THEY ARE PERFORMING HERE.] **OR** [The CONSULTANT will perform services as set forth in the attached Exhibit " _ ".]

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY. The CONSULTANT shall appear at meetings specified in Exhibit " _ " to keep staff and City Council advised of the progress on the project.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

4. **PROJECT COORDINATION AND SUPERVISION.** _____ hereby is designated as the Project Coordinator for the CITY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. _____ thereby is designated as the Project Director for the CONSULTANT.

5. **COMPENSATION AND PAYMENT.** The compensation for the CONSULTANT shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit “_” shall not exceed \$_____. The compensation for the CONSULTANT’S work shall not exceed [___ per hour.] **OR** [the rates set forth in Exhibit “_”.] Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice, provided that work is accomplished consistent with Exhibit “_”, as determined by the CITY.

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY, and for furnishing of copies to the CITY, if requested.

6. **ACCEPTABILITY OF WORK.** The CITY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event the CONSULTANT and the CITY cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT in this Agreement, the CITY or the CONSULTANT shall give to the other written notice. Within ten (10) business days, the CONSULTANT and the CITY shall each prepare a report which supports their position and file the same with the other party. The CITY shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT.

7. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications, and other documents prepared by the CONSULTANT for this project, whether paper or electronic, shall: (1) be free from defects; (2) become the property of the CITY for use with respect to this project; and (3) shall be turned over to the CITY upon completion of the project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY, and CONSULTANT thereby expressly waives and disclaims any copyright in, and the right to reproduce, all written material, drawings, plans, specifications, or other work

prepared under this Agreement, except upon the CITY'S prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONSULTANT agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium, or method utilize the CONSULTANT'S written work product for the CITY'S purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings, or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14, but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of Services of this project, unless otherwise mutually agreed.

8. **INDEPENDENT CONTRACTOR.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint ventures with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the CITY, and are not entitled to any of the rights, benefits, or privileges of the CITY'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT'S employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement, nor any interest herein, may be assigned by the CONSULTANT without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or SUBCONSULTANTS, as the CONSULTANT may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONSULTANT with its SUBCONSULTANT(S) shall require the SUBCONSULTANT(S) to adhere to the applicable terms of this Agreement.

9. **CONTROL.** Neither the CITY, nor its officers, agents, or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT'S employees, except as set forth in this Agreement. The CONSULTANT, or the CONSULTANT'S agents, servants, or employees are not in any manner agents, servants, or employees of the CITY. The CONSULTANT and its agents, servants, and employees are wholly independent from the CITY and CONSULTANT'S obligations to the CITY are solely prescribed by this Agreement.

10. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable state and federal statutes and regulations, and all applicable ordinances, rules, and regulations of the City of National City, whether now in force or subsequently enacted. The CONSULTANT and each of its SUBCONSULTANT(S), shall obtain and maintain a current City of National City business license prior to and during performance of any work pursuant to this Agreement.

11. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. CONSULTANT must promptly produce a copy of any such license, permit, or approval to CITY upon request. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

12. **STANDARD OF CARE.**

A. The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT'S employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this Agreement, the CONSULTANT warrants to the CITY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT'S professional performance or the furnishing of materials or services relating thereto.

C. The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the CITY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this sub-section will render the CONSULTANT liable to the CITY for any increased costs that result from the CITY'S later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

13. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The CONSULTANT will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

14. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT

shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONSULTANT shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 14, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 15.

[USE THE FOLLOWING SECTION 15 FOR DESIGN PROFESSIONALS, I.E., ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEER, PROFESSIONAL LAND SURVEYOR]

15. **INDEMNIFICATION AND HOLD HARMLESS.** To the maximum extent provided by law, the CONSULTANT agrees to defend, indemnify, and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S negligence, recklessness, or willful misconduct in the performance of this Agreement. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term of this Agreement.

[USE THE FOLLOWING SECTION 15 FOR ALL OTHER TYPES OF CONSULTANTS AND CONTRACTORS]

15. **INDEMNIFICATION AND HOLD HARMLESS.** To the maximum extent provided by law, The CONSULTANT agrees to defend, indemnify and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S performance or other obligations under this Agreement; provided, however, that this indemnification and hold harmless shall not include

any claims or liability arising from the established sole negligence or willful misconduct of the CITY, its agents, officers, employees or volunteers. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense, and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term of this Agreement.

16. **EMPLOYEE PAYMENTS AND INDEMNIFICATION.**

16.1 **PERS Eligibility Indemnification.** If CONTRACTOR's employee(s) providing services under this Agreement claims, or is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS of the CITY, CONTRACTOR shall indemnify, defend, and hold harmless CITY for the payment of any employer and employee contributions for PERS benefits on behalf of the employee as well as for payment of any penalties and interest on such contributions which would otherwise be the responsibility of the CITY.

CONTRACTOR'S employees providing service under this Agreement shall not: (1) qualify for any compensation and benefit under PERS; (2) be entitled to any benefits under PERS; (3) enroll in PERS as an employee of CITY; (4) receive any employer contributions paid by CITY for PERS benefits; or (5) be entitled to any other PERS-related benefit that would accrue to a CITY employee. CONTRACTOR's employees hereby waive any claims to benefits or compensation described in this Section 16. This Section 16 applies to CONTRACTOR notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary.

16.2 **Limitation of CITY Liability.** The payment made to CONTRACTOR under this Agreement shall be the full and complete compensation to which CONTRACTOR and CONTRACTOR's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither CONTRACTOR nor CONTRACTOR's officers, employees, agents, and subcontractors are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to CITY employees. The CITY will not make any federal or state tax withholdings on behalf of CONTRACTOR. The CITY shall not be required to pay any workers' compensation insurance on behalf of CONTRACTOR.

16.3 **Indemnification for Employee Payments.** CONTRACTOR agrees to defend and indemnify the CITY for any obligation, claim, suit, or demand for tax, retirement contribution including any contribution to PERS, social security, salary or wages, overtime payment, or workers' compensation payment which the CITY may be required to make on behalf of (1) CONTRACTOR, (2) any employee of CONTRACTOR, or (3) any employee of CONTRACTOR construed to be an employee of the CITY, for work performed under this Agreement. This is a continuing obligation that survives the termination of this Agreement.

17. **WORKERS' COMPENSATION.** The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all

amendments thereto; and all similar State or federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its officers, employees, and volunteers from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the CITY or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

18. **INSURANCE.** The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its SUBCONSULTANT(S), when applicable, to purchase and maintain throughout the term of this Agreement, the following insurance policies:

A. If checked, **Professional Liability Insurance** (errors and omissions) with minimum limits of \$1,000,000 per occurrence.

B. **Automobile Insurance** covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include owned, non-owned, and hired vehicles ("any auto"). The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided.

C. **Commercial General Liability Insurance**, with minimum limits of either \$2,000,000 per occurrence and \$4,000,000 aggregate, or \$1,000,000 per occurrence and \$2,000,000 aggregate with a \$2,000,000 umbrella policy, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to this "project" or "location". The "project" or "location" should be noted with specificity on an endorsement that shall be incorporated into the policy.

D. **Workers' Compensation Insurance** in an amount sufficient to meet statutory requirements covering all of CONSULTANT'S employees and employers' liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the CITY. Said endorsement shall be provided prior to commencement of work under this Agreement.

If CONSULTANT has no employees subject to the California Workers' Compensation and Labor laws, CONSULTANT shall execute a Declaration to that effect. Said Declaration shall be provided to CONSULTANT by CITY.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, officials, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY's Risk Manager, at the address listed in subsection G below, of cancellation or material change.

F. If required insurance coverage is provided on a "claims made" rather than "occurrence" form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement. In addition, the "retro" date must be on or before the date of this Agreement.

G. The Certificate Holder for all policies of insurance required by this Section shall be:

City of National City
c/o Risk Manager
1243 National City Boulevard
National City, CA 91950-4397

H. Insurance shall be written with only insurers authorized to conduct business in California that hold a current policy holder's alphabetic and financial size category rating of not less than A:VII according to the current Best's Key Rating Guide, or a company of equal financial stability that is approved by the CITY'S Risk Manager. In the event coverage is provided by non-admitted "surplus lines" carriers, they must be included on the most recent List of Approved Surplus Line Insurers ("LASLI") and otherwise meet rating requirements.

I. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY'S Risk Manager. If the CONSULTANT does not keep all insurance policies required by this Section 18 in full force and effect at all times during the term of this Agreement, the CITY may treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

J. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the CITY. CITY reserves the right to modify the insurance requirements of this Section 18, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

K. If the CONSULTANT maintains broader coverage or higher limits (or both) than the minimum limits shown above, the CITY shall be entitled to the broader coverage or higher limits (or both) maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

19. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney's fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney's fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorney's fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

20. **TERMINATION.**

A. This Agreement may be terminated with or without cause by the CITY. Termination without cause shall be effective only upon 60-day's written notice to the CONSULTANT. During said 60-day period the CONSULTANT shall perform all services in accordance with this Agreement.

B. This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement, misrepresentation by the

CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONSULTANT as provided for herein.

D. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the CITY by the CONSULTANT'S breach, if any. Thereafter, ownership of said written material shall vest in the CITY all rights set forth in Section 7.

E. The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

21. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To CITY: (Insert name)
 (Insert title)
 (Insert department)
 City of National City
 1243 National City Boulevard
 National City, CA 91950-4397

To CONSULTANT:
 (Insert name)
 (Insert title)
 (Company name)
 (Address)

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of

changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

22. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT**

OBLIGATIONS. During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the City of National City. The CONSULTANT also agrees not to specify any product, treatment, process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONSULTANT shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the National City Conflict of Interest Code. Specifically, the CONSULTANT shall file a Statement of Economic Interests with the City Clerk of the City of National City in a timely manner on forms which the CONSULTANT shall obtain from the City Clerk.

The CONSULTANT shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Section 22 by the CONSULTANT.

23. **PREVAILING WAGES.** State prevailing wage rates may apply to work performed under this Agreement. State prevailing wages rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Consultant is solely responsible to determine if State prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.

24. **ADMINISTRATIVE PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state, or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes. To the extent any exhibits, schedules, or provisions thereof conflict or are inconsistent with the terms and conditions contained in this Agreement, the terms and conditions of this Agreement shall control.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Assignment & Assumption of Rights.* CONSULTANT shall not assign this Agreement, in whole or in part, to any other party without first obtaining the written consent of CITY.

H. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

I. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California. The venue for any legal action arising under this Agreement shall be in either state or federal court in the County of San Diego, State of California.

J. *Audit.* If this Agreement exceeds ten-thousand dollars (\$10,000), the parties shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the Agreement, per Government Code Section 8546.7.

K. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

L. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

M. *Subcontractors or Subconsultants.* The CITY is engaging the services of the CONSULTANT identified in this Agreement. The CONSULTANT shall not subcontract any portion of the work, unless such subcontracting was part of the original proposal or is allowed by the CITY in writing. In the event any portion of the work under this Agreement is subcontracted, the subconsultant(s) shall be required to comply with and agree to, for the benefit of and in favor of the CITY, both the insurance provisions in Section 18 and the indemnification and hold harmless provision of Section 15 of this Agreement.

N. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

[END OF AGREEMENT – SIGNATURES APPEAR ON NEXT PAGE]

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

CITY OF NATIONAL CITY

INSERT CO'S NAME IN BOLD, ALL CAPS

*(Corporation – signatures of two corporate officers required)
(Partnership or Sole proprietorship – one signature)*

By: _____
Alejandra Sotelo Solis, Mayor

By: _____
(Name)

-- OR --

Stephen Manganiello, Acting City
Manager

(Print)

(Title)

APPROVED AS TO FORM:

Angil P. Morris-Jones
City Attorney

By: _____
(Name)

By: _____
Nicole Pedone
Senior Assistant City Attorney

(Print)

-- OR --

(Title)

By: _____
Roberto M. Contreras
Deputy City Attorney

EXHIBIT 10-R: A &E BOILERPLATE CONTRACT LANGUAGE

This exhibit contains fiscal requirements from 2 CFR 200 and may be used for state-only funded contracts as well.

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ARTICLE I INTRODUCTION

This CONTRACT is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, CITY:

The name of the “CONSULTANT” is as follows:

(NAME OF CONSULTANT)

Incorporated in the State of (NAME OF STATE)

The Project Manager for the “CONSULTANT” will be (NAME)

The name of the “CITY” is as follows:

(NAME)

The Contract Administrator for CITY will be (NAME)

- B. The work to be performed under this CONTRACT is described in Article III Statement of Work and the approved CONSULTANT’s Cost Proposal dated (DATE). The approved CONSULTANT’s Cost Proposal is attached hereto (Attachment #) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this CONTRACT, this CONTRACT shall take precedence.
- C. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless CITY, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys’ and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this CONTRACT on the part of CONSULTANT, except such loss or damage which was caused by the sole negligence, or willful misconduct of CITY, as determined by a Court of competent jurisdiction. The provisions of this section shall survive termination or suspension of this CONTRACT.
- D. CONSULTANT in the performance of this CONTRACT, shall act in an independent capacity. It is understood and agreed that CONSULTANT (including CONSULTANT’s employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto. CONSULTANT’s assigned personnel shall not be entitled to any benefits payable to employees of City.
- E. CITY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of the CONTRACT, and is not required to issue W-2 Forms

for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the CITY as to the designation of tasks to be performed and the results to be accomplished.

- F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this CONTRACT.
- G. Except as expressly authorized herein, CONSULTANT's obligations under this CONTRACT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the CITY. However, claims for money due or which become due to CONSULTANT from City under this CONTRACT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the CITY.
- H. CONSULTANT shall be as fully responsible to the CITY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- I. No alteration or variation of the terms of this CONTRACT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or CONTRACT not incorporated herein, shall be binding on any of the parties hereto.
- J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

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

ARTICLE III STATEMENT OF WORK

- A. The CONSULTANT will be expected to submit proposals for individual task orders in a timely manner, consistent with the general scope of services in Exhibit "A". Task order proposals shall include a detailed scope of work, schedule of deliverables and "not-to-exceed" cost estimate. The Project Coordinator will issue a Notice to Proceed upon approval of each individual task order. After issuance of a Notice to Proceed for each individual task order, the CONSULTANT will only receive compensation for actual work performed, on a time and materials basis, consistent with the detailed scope of work and within the limits of the "not-to-exceed" cost estimate.

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY. The CONSULTANT shall appear at meetings specified in *Exhibit "A"* to keep staff and City Council advised of the progress on the Project.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Contract. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services, not to exceed a factor of 15% from the base amount.

B. Right of Way

Right-of-Way Engineering services include but are not limited to: determination of ownership, parcel, and subparcel information, boundary determination, right-of-way requirements, preparing appraisal maps, preparing final right-of-way maps, preparing acquisition and relinquishment documents, and performing right-of-way certification.

C. Surveys

These services include but are not limited to: control, engineering, and construction surveys, conducting field investigation, developing topographical mapping, establishing property boundaries, construction staking, and records searches.

D. Subsurface Investigations

Geotechnical and geology services include but are not limited to: performing field drilling and borings, preparing foundation reports, pavement recommendations, soils reports, log of test borings, evaluating and making recommendations for design parameters based on the conditions encountered.

E. CITY Obligations

All data applicable to the project and in possession of CITY or another agency, or government that are to be made available to CONSULTANT are referred to in the Contract.

F. Conferences, Visits to Site, Inspection of Work

The Contract provides for conferences as needed, visits to the site, and inspection of the work by representatives of the state, or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in invoices to be paid by the CITY.

G. Checking Shop Drawings

Payment for checking shop drawings by CONSULTANT may be included in the invoices to be paid by the City, or provision may be made for separate payment.

H. Consultant Services During Construction

Design support during construction services include but are not limited to: developing design changes to plans, specification, and cost estimated during construction, reviewing shop drawings and submittals, field reviews, site condition verification, and developing as-built plans.

I. Documentation and Schedules

The CITY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Contract, and the amount of compensation due. In the event the CONSULTANT and the CITY cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT in this Contract, the CITY or the CONSULTANT shall give to the other written notice. Within ten (10) business days, the CONSULTANT and the CITY shall each prepare a report

which supports their position and file the same with the other party. The CITY shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT.

J. Deliverables and Number of Copies

The number of copies of papers or documents to be furnished, such as reports, brochures, sets of plans, specifications, or Right of Way plots shall be specified in each task order.

ARTICLE IV PERFORMANCE PERIOD

- A. This CONTRACT shall go into effect on (DATE), contingent upon approval by CITY, and CONSULTANT shall commence work after notification to proceed by CITY'S Contract Administrator. The CONTRACT shall end on (DATE), unless extended by CONTRACT amendment.
- B. CONSULTANT is advised that any recommendation for CONTRACT award is not binding on CITY until the CONTRACT is fully executed and approved by CITY.
- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this CONTRACT, the terms of the CONTRACT shall be extended by CONTRACT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only. The maximum term shall not exceed five (5) years.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this CONTRACT. CONSULTANT will be reimbursed within thirty (30) days upon receipt by CITY'S Contract Administrator of itemized invoices in duplicate.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.
- D. After a project to be performed under this CONTRACT is identified by CITY, CITY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a CITY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After CONTRACT has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both CITY and CONSULTANT.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's approved Cost Proposal.

CONSULTANT shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT is responsible for paying the appropriate rate, including escalations that take place during the term of the CONTRACT.

- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONSULTANT will be responsible for transportation and subsistence costs in excess of State rates.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an CONTRACT amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this CONTRACT has been approved by CITY and notification to proceed has been issued by CITY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this CONTRACT.
- J. A Task Order is of no force or effect until returned to CITY and signed by an authorized representative of CITY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by CITY.
- K. CONSULTANT will be reimbursed within thirty (30) days upon receipt by CITY'S Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this CONTRACT number, project title and Task Order number. Credits due CITY that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by CONSULTANT prior to the expiration or termination of this CONTRACT. Invoices shall be mailed to CITY's Contract Administrator at the following address:

Stephen Manganiello
Director of Public Works/City Engineer
Engineering & Public Works Department
City of National City
1243 National City Boulevard
National City, California 91950-4301

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

- M. The total amount payable by CITY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.
- N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders may not be used to amend the language (or the terms) of this CONTRACT nor to exceed the scope of work under this CONTRACT.
- P. The total amount payable by CITY for all Task Orders resulting from this CONTRACT shall not exceed \$ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this CONTRACT through Task Orders.

ARTICLE VI TERMINATION

- A. This CONTRACT may be terminated by CITY, provided that CITY gives not less than sixty (60) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, CITY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 15, Property of CITY.
- B. CITY may temporarily suspend this CONTRACT, at no additional cost to CITY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If CITY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this CONTRACT. A temporary suspension may be issued concurrent with the notice of termination provided for in subsection A of this section.
- C. Notwithstanding any provisions of this CONTRACT, CONSULTANT shall not be relieved of liability to CITY for damages sustained by City by virtue of any breach of this CONTRACT by CONSULTANT, and City may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due City from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this CONTRACT, except as provided in Section **Error! Reference source not found.** Upon termination, CITY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 15, Property of CITY.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

- C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONSULTANT to CITY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORD/AUDITS

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

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this CONTRACT that is not disposed of by CONTRACT, shall be reviewed by CITY'S Director of Finance.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by CITY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by CITY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this CONTRACT.
- D. CONSULTANT and subconsultant CONTRACTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an CONTRACT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the CONTRACT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, CITY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The CONTRACT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by CITY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the CONTRACT by this reference if directed by CITY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to

ensure that the federal, CITY or local governments have access to CPA work papers, will be considered a breach of CONTRACT terms and cause for termination of the CONTRACT and disallowance of prior reimbursed costs.

E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by Caltrans Audits and Investigation (A&I). Caltrans A&I, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the CITY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the CONTRACT terms and cause for termination of the CONTRACT and disallowance of prior reimbursed costs.

1. During Caltrans A&I's review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans A&I 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 Caltrans A&I identifies significant issues during the review and is unable to issue a cognizant approval letter, CITY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I.

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 Caltrans A&I is unable to issue a cognizant letter per paragraph E.1. above, Caltrans A&I 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. Caltrans A&I 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 Caltrans A&I 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 CONTRACT.

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

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this CONTRACT or otherwise, shall create any contractual relation between the CITY and any Subconsultants, and no subCONTRACT shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the CITY 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 CITY'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 CITY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subCONTRACT entered into as a result of this CONTRACT, shall contain all the provisions stipulated in this entire CONTRACT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the CITY.
- E. Any substitution of Subconsultants must be approved in writing by the CITY Contract Administrator in advance of assigning work to a substitute Subconsultant.

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by CITY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by CITY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased with funds provided under the terms of this CONTRACT is subject to the following:
 1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five

thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, CITY shall receive a proper refund or credit at the conclusion of the CONTRACT, or if the CONTRACT is terminated, CONSULTANT may either keep the equipment and credit CITY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established CITY procedures; and credit CITY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by CITY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by CITY.

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

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an CONTRACT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this CONTRACT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this CONTRACT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/District-Region_Map_Construction_7-8-15.pdf). These wage rates are made a specific part of this CONTRACT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at CITY construction sites, at CITY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve CITY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov>.
- D. Payroll Records
 1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.

- b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by CITY representative's at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of CITY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to CITY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the CITY Contract Administrator by both email and regular mail on the business day following receipt of the request.
 3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
 4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by CITY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
 5. The CONSULTANT shall inform CITY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
 6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to CITY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by CITY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the CITY Contract Administrator.

F. Penalty

1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the CITY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the CONTRACT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the CONTRACT.
3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The CONTRACT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, CITY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.

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

G. Hours of Labor

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

H. Employment of Apprentices

1. Where either the prime CONTRACT or the SUBCONTRACT exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the CONTRACT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST

- A. During the term of this CONTRACT, the CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this CONTRACT or any ensuing CITY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this CONTRACT or any ensuing CITY construction project which will follow.
- B. CONSULTANT certifies that it has disclosed to CITY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this CONTRACT. CONSULTANT agrees to advise CITY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this CONTRACT. CONSULTANT further agrees to complete any statements of economic interest if required by either CITY ordinance or State law.

- 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 CONTRACT.
- 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 CONTRACT to provide construction inspection for any construction project resulting from this CONTRACT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

ARTICLE XV PROHIBITION OF EXPENDING CITY, STATE, OR FEDERAL FUNDS FOR LOBBYING

- A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:
 - 1. No State, Federal, or CITY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this CONTRACT, or with the extension, continuation, renewal, amendment, or modification of this CONTRACT.
 - 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this CONTRACT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier SUBCONTRACTs, which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this CONTRACT, CONSULTANT and its subconsultants shall not deny the CONTRACT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by CITY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this CONTRACT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the CITY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or CITY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other CONTRACT.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this CONTRACT.
- G. The CONSULTANT, with regard to the work performed under this CONTRACT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 3. Does not have a proposed debarment pending; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to CITY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This CONTRACT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTs who enter into a federally-funded CONTRACT will assist the CITY in a good faith effort to achieve California's statewide overall DBE goal.
- B. The goal for DBE participation for this CONTRACT is 6%. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10-01: Consultant Proposal DBE Commitment](#), or in [Exhibit 10-02: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the CONTRACT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the CONTRACT goal, or by documenting adequate good faith efforts to meet the CONTRACT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: *DBE Information – Good Faith Efforts* to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

- D. DBEs and other small businesses, as defined in 49 CFR Part 26 are encouraged to participate in the performance of CONTRACTs financed in whole or in part with federal funds. The CITY, CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted 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 CITY deems appropriate, which may include, but is not limited to:
- (1) Withholding monthly progress payments;
 - (2) Assessing sanctions;
 - (3) Liquidated damages; and/or
 - (4) Disqualifying the contractor from future bidding as non-responsible
- E. A DBE firm may be terminated only with prior written approval from CITY and only for the reasons specified in 49 CFR §26.53(f). Prior to requesting CITY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR §26.53(f). If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- F. Consultant shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of Consultant) pursuant to prior written authorization of the CITY's Contract Administrator.
- G. A DBE is only eligible to be counted toward the CONTRACT goal if it performs a commercially useful function (CUF) on the CONTRACT. CUF must be evaluated on an CONTRACT by CONTRACT basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the CONTRACT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the CONTRACT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the CONTRACT is commensurate with the work it is actually performing, and other relevant factors.
- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, CONTRACT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its CONTRACT with its own work force, or the DBE subcontracts a greater portion of the work of the CONTRACT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- 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 prime

CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

- K. Upon completion of the CONTRACT, a summary of these records shall be prepared and submitted on the form entitled, Exhibit 17-F: Final Report-Utilization of Disadvantaged Business Enterprise (DBE) First-Tier Subconsultants, certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.
- L. If a DBE subconsultant is decertified during the life of the CONTRACT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the CONTRACT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to CITY's Contract Administrator within thirty (30) calendar days.
- M. Any subcontract entered into as a result of this CONTRACT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its SUBCONSULTANT(S), when applicable, to purchase and maintain throughout the term of this Contract, the following insurance policies:

- A. If checked, Professional Liability Insurance (errors and omissions) with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, on a "claims made" basis. The CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Contract. In addition, the "retro" date must be shown and must be before the date of this Contract.
- B. Automobile Insurance covering all bodily injury and property damage incurred during the performance of this Contract, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include owned, non-owned, and hired vehicles ("any auto"). The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided.
- C. Commercial General Liability Insurance, with minimum limits of either \$2,000,000 per occurrence and \$4,000,000 aggregate, or \$1,000,000 per occurrence and \$2,000,000 aggregate with a \$2,000,000 umbrella policy, covering all bodily injury and property damage arising out of its operations, work, or performance under this Contract. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to this "project" or "location". The "project" or "location" should be noted with specificity on an endorsement that shall be incorporated into the policy.
- D. Workers' Compensation Insurance in an amount sufficient to meet statutory requirements covering all of CONSULTANT'S employees and employers' liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the CITY. Said endorsement shall be provided prior to commencement of work under this Contract.

If CONSULTANT has no employees subject to the California Workers' Compensation and Labor laws, CONSULTANT shall execute a Declaration to that effect. Said Declaration shall be provided to CONSULTANT by CITY.

- E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, officials, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY's Risk Manager, at the address listed in subsection G below, of cancellation or material change.
- F. Insurance shall be written with only California admitted companies that hold a current policy holder's alphabetic and financial size category rating of not less than A:VII according to the current Best's Key Rating Guide, or a company equal financial stability that is approved by the CITY'S Risk Manager. In the event coverage is provided by non-admitted "surplus lines" carriers, they must be included on the most recent California List of Eligible Surplus Lines Insurers (LESLI list) and otherwise meet rating requirements.
- G. The Certificate Holder for all policies of insurance required by this Article shall be "CITY of National CITY, c/o Risk Manager, 1243 National CITY Boulevard, National CITY, CA 91950-4397.
- H. This Contract shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY'S Risk Manager. If the CONSULTANT does not keep all of such insurance policies in full force and effect at all times during the terms of this Contract, the CITY may elect to treat the failure to maintain the requisite insurance as a breach of this Contract and terminate the Contract as provided herein.
- I. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the CITY.
- J. If the CONSULTANT maintains broader coverage or higher limits (or both) than the minimum limits shown above, the CITY requires and shall be entitled to the broader coverage or higher limits (or both) maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this CONTRACT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the CONTRACT were executed after that determination was made.
- B. This CONTRACT is valid and enforceable only, if sufficient funds are made available to CITY for the purpose of this CONTRACT. In addition, this CONTRACT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or CITY governing board that may affect the provisions, terms, or funding of this CONTRACT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this CONTRACT may be amended to reflect any reduction in funds.
- D. CITY has the option to terminate the CONTRACT pursuant to Article VI Termination, or by mutual CONTRACT to amend the CONTRACT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

- A. This CONTRACT may be amended or modified only by mutual written CONTRACT of the parties.

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

ARTICLE XXII CONTINGENT FEE

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

ARTICLE XXIII DISPUTES

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

- A. Any dispute, other than an audit, concerning a question of fact arising under this Contract that is not disposed of by agreement shall be decided by a committee consisting of CITY's Contract Administrator and (Insert Department Head or Official), who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than 30 days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by the CITY Council of unresolved claims or disputes, other than an audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this Contract.

ARTICLE XXIV INSPECTION OF WORK

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

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by CITY Safety Officer and other CITY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, CITY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all

of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this CONTRACT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this CONTRACT 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 CONTRACT must be approved in writing by City.
- B. Additionally, it is agreed that the Parties intend this to be an CONTRACT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. CITY may permit copyrighting reports or other CONTRACT products. If copyrights are permitted; the CONTRACT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY CITY'S CONSTRUCTION CONTRACTOR

- A. A. The CONSULTANT agrees to defend, indemnify, and hold harmless the CITY of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S negligent performance of this Contract. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

- B. The indemnity, defense and hold harmless obligations contained herein shall survive the termination of this Contract for any alleged or actual omission, act, or negligence under this Contract that occurred during the term of this Contract.
- C. If claims are filed by CITY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with CITY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- D. CONSULTANT's personnel that CITY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from CITY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this Contract.
- E. Services of CONSULTANT's personnel in connection with CITY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Contract in order to resolve the construction claims.
- F. If the CITY's construction contractor files a claim with the CITY, the claims procedures of Public Contract Code Article 9204 shall apply. A correct copy of Public Contract Code Article 9204 is attached to this Contract as *Exhibit B*.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to CITY's operations, which are designated confidential by CITY and made available to CONSULTANT in order to carry out this CONTRACT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by CITY relating to the CONTRACT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the CONTRACT or CITY's actions on the same, except to CITY's staff, CONSULTANT's own personnel involved in the performance of this CONTRACT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this CONTRACT without prior review of the contents thereof by CITY, and receipt of CITY'S written permission.
- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to,

City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE XXX EVALUATION OF CONSULTANT

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

ARTICLE XXXI RETENTION OF FUNDS

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this Article.
- B. No retainage will be withheld by CITY from progress payments due the CONSULTANT. Retainage by the CONSULTANT or subconsultants is prohibited, and no retainage will be held by the CONSULTANT from progress due subconsultants. Any violation of this provision shall subject the violating CONSULTANT or subconsultants to the penalties, sanctions, and other remedies specified in Business and Professions Code §7108.5. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANT and subconsultants.

ARTICLE XXXII NOTIFICATION

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To CITY: Stephen Manganiello
Director of Public Works/City Engineer
Engineering & Public Works Department
City of National City
1243 National City Boulevard
National City, California 91950-4301
SManganiello@nationalcityca.gov

To CONSULTANT:

(Insert name)
(Insert title)
(Company name)
(Address)

Notice of change of address shall be given by written notice in the manner specified in this Article. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Article.

ARTICLE XXXIII ADMINISTRATIVE PROVISIONS

- A. Computation of Time Periods. If any date or time period provided for in this Contract is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state, or legal holiday.
- B. Counterparts. This Contract may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.
- C. Captions. Any captions to, or headings of, the sections or subsections of this Contract are solely for the convenience of the parties hereto, are not a part of this Contract, and shall not be used for the interpretation or determination of the validity of this Contract or any provision hereof.
- D. No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Contract shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.
- E. Exhibits and Schedules. The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes. To the extent any exhibits, schedules, or provisions thereof conflict or are inconsistent with the terms and conditions contained in this Contract, the terms and conditions of this Contract shall control.
- F. Waiver. The waiver or failure to enforce any provision of this Contract shall not operate as a waiver of any future breach of any such provision or any other provision hereof.
- G. Applicable Law. This Contract shall be governed by and construed in accordance with the laws of the State of California.
- H. Entire Contract. This Contract supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.
- I. Successors and Assigns. This Contract shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.
- J. Subcontractors or Subconsultants. The CITY is engaging the services of the CONSULTANT identified in this Contract. The CONSULTANT shall not subcontract any portion of the work, unless such subcontracting was

part of the original proposal or is allowed by the CITY in writing. In the event any portion of the work under this Contract is subcontracted, the subconsultant(s) shall be required to comply with and agree to, for the benefit of and in favor of the CITY, both the insurance provisions in ARTICLE XXV and the indemnification and hold harmless provision of ARTICLE XXVII of this Contract.

- K. Construction. The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Contract, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Contract, (iv) each party and such party's counsel and advisors have reviewed this Contract, (v) each party has agreed to enter into this Contract following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Contract, or any portions hereof, or any amendments hereto.
- L. Licenses, Permits, Etc. The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Contract, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.
- M. Legal Fees. If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Contract, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney's fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney's fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorney's fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

ARTICLE XXXIV CONTRACT

The two parties to this CONTRACT, who are the before named CONSULTANT and the before named CITY, hereby agree that this CONTRACT constitutes the entire CONTRACT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this CONTRACT as evidenced by the signatures below.

ARTICLE XXXIV SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the date and year first above written.

CITY OF NATIONAL CITY

INSERT CO'S NAME IN BOLD, ALL CAPS

*(Corporation – signatures of two corporate officers required)
(Partnership or Sole proprietorship – one signature)*

By: _____
City Manager

By: _____
(Name)

(Print)

APPROVED AS TO FORM:

Angil P. Morris-Jones
City Attorney

(Title)

By: _____
Roberto M. Contreras
Deputy City Attorney

By: _____
(Name)

(Print)

(Title)

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

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

Note: Mark-ups are Not Allowed

Consultant _____ Prime Consultant Subconsultant

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

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

Fee	=	%
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BILLING INFORMATION

CALCULATION INFORMATION

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

NOTES:

1. All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Indirect cost rates should be based on the consultant's annual accounting period, established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3

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

Consultant _____ Prime Consultant Subconsultant

Project No. _____ Contract No. _____ Date _____

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

Note: Add additional pages if necessary.

NOTES:

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

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

EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

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

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

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

Prime Consultant or Subconsultant Certifying:

Name: _____

Title *: _____

Signature : _____

Date of Certification (mm/dd/yyyy): ___

Email: _____

Phone Number: _____

Address: _____

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

List services the consultant is providing under the proposed contract:

Internal Control Questionnaire (ICQ) for Consulting Engineers

Name of Engineering Consultant (“the Company”): _____

TIN (Taxpayer Identification Number): _____

Headquarters Address: _____

Company Website: _____

Fiscal Year End: _____

This ICQ was prepared for (DOT/agency name): _____

Time Period Covered: _____

Location of Accounting Records: _____

- Please include the following items as **attachments** to this ICQ:

- FAR Part 31 Overhead Audit Report for most recent fiscal year, including audited Statement of Direct Labor, Fringe Benefits, and General Overhead (hereinafter “Indirect Cost Rate Schedule”) and related reconciliation to the financial statements.
- Cognizant audit report or cognizant letter of concurrence from the cognizant Government agency.
Check here if not applicable:
- Post-closing trial balance and financial statements (balance sheet, income statement, and statement of cash flows) for the most recent fiscal year. (Note: If the indirect cost rate schedule does not directly tie to the trial balance, then please provide a supplemental reconciliation schedule.)
- Current chart of accounts that ties to financial statements and indirect cost rate schedule.
- Independent Auditor’s Report on financial statements and accompanying management letter.
Check here if not applicable:
- Sample timesheet.
- The Company’s policies for vacation and sick leave.
- The Company’s bonus policy.
- Other written policies, as requested throughout this ICQ.

Note: Throughout this ICQ, all references to “AASHTO Guide” pertain to the 2016 Edition of the *AASHTO Uniform Audit & Accounting Guide*.

- Please identify the Company’s primary contact for accounting questions:

Name: _____

Title: _____

Phone Number: _____

E-mail Address: _____

Mailing address (if different than headquarters address listed above): _____

A. Background Information

A.1. Year Established. When was the Company formed? _____

A.2. Business Form. What form of business entity is the Company?

Sole Proprietorship Partnership C Corporation S Corporation

Other _____

AASHTO Internal Control Questionnaire for Consulting Engineers

A.8. Number of Employees. How many employees (including managers and principals) does the Company currently employ?

a. Full time: _____ b. Part time: _____

- Has this number changed in the past one-year period?

No Yes. If “yes,” please explain: _____

A.9. Revenue Sources.

1. For most recent fiscal year, what percentage of the Company’s revenue was generated from each of the following?

a. State government: _____% c. Local government: _____%
 b. Federal government: _____% d. Commercial/private: _____%

2. Please specify all revenues earned as either a prime consultant or subconsultant:

a. Revenues from Government Projects: \$ _____
 b. Revenues Other Customers: \$ _____
Total Company Gross Revenue: \$ _____

A.10. Contract Mix. What percentage of the Company’s revenue was generated from each of the following contract types?

a. Lump sum: _____% c. Cost plus (time and materials): _____%
 b. Cost plus fixed fee: _____% d. Other: _____% Please explain “Other.” _____

B. Accounting: General Background

B.1. Fiscal Period. Has the Company used the same fiscal reporting period for the past two years?

Yes No

B.2. Accounting Method/Basis. What basis of accounting does the Company use to prepare general purpose financial statements?

Cash Accrual Hybrid. Please explain “Hybrid.” _____

- Was the same basis of accounting also used to prepare the firm’s indirect cost rate schedule?

Yes No. Please explain: _____

B.3. Accounting Policies. Does the Company have written accounting policies that address the following topics?

(If “yes,” please provide a copy.)	Yes	No
a. Accounting system	<input type="checkbox"/>	<input type="checkbox"/>
b. Billing	<input type="checkbox"/>	<input type="checkbox"/>
c. Cost estimating/allowability.	<input type="checkbox"/>	<input type="checkbox"/>
d. Recording time worked/timesheet preparation	<input type="checkbox"/>	<input type="checkbox"/>
e. Fringe benefits/leave time	<input type="checkbox"/>	<input type="checkbox"/>
f. Recording overtime	<input type="checkbox"/>	<input type="checkbox"/>
g. Compliance with FAR Part 31 ^(†) and applicable CAS	<input type="checkbox"/>	<input type="checkbox"/>
h. Recording direct and indirect costs	<input type="checkbox"/>	<input type="checkbox"/>
i. Overhead/indirect cost rate development	<input type="checkbox"/>	<input type="checkbox"/>
j. Billing rate development	<input type="checkbox"/>	<input type="checkbox"/>

^(†) FAR Part 31 is codified at 48 CFR Part 31, which is available at <https://www.acquisition.gov/far/html/FARTOCP31.html>.

AASHTO Internal Control Questionnaire for Consulting Engineers

B.4. Preparing the Indirect Cost Schedule. How frequently does the Company prepare an indirect cost rate schedule to determine costs eligible for reimbursement per FAR Part 31?

Annually Other (please specify): _____

- Was the most recent schedule prepared by the Company or by another entity instead (e.g., CPA firm)?

Prepared by: Internal staff External party (specify): _____

- Period covered by most recent indirect cost schedule:

One-year period ended December 31, 20 _____

Other (please specify): _____

B.5. Fraud, Abuse, and Contract Violations. Is the Company’s management aware of any material instances of fraud, illegal acts, abuse, or violations of contracts provisions or grant agreements?

No Yes. If “yes,” please explain: _____

B.6. Knowledge of FAR Part 31. Are appropriate personnel within the Company familiar with FAR Part 31?

Yes No. If “no,” please explain: _____

B.7. Audits/Examinations. Within the past three years, has a CPA or governmental agency performed an independent audit, review, attestation, or compilation of the Company’s financial data or any phase of the Company’s operations?

No Yes. If “yes,” please complete the following (if applicable):

a. **Financial Statements:** Audit Review Compilation Other (please specify): _____

Name of CPA or Agency: _____

Contact: _____

Period Covered: _____

b. **Overhead Rate:** Audit Review Compilation Other (please specify): _____

- Was the overhead rate calculated in accordance with FAR Part 31? Yes No

Name of CPA or Agency: _____

Contact: _____

Period Covered: _____

c. **Project Audits:** Audit Review Compilation Other (please specify): _____

Name of CPA or Agency: _____

Contact: _____

Period Covered: _____

AASHTO Internal Control Questionnaire for Consulting Engineers

C. Accounting System(s)

C.1. Accounting Software. What type of accounting software does the Company use?

- Internally-developed system. Commercial system. Name of vendor: _____
 Hybrid system. Please explain: _____

- Please describe any significant manual procedures used outside of the automated accounting system to record transactions:

C.2. Job Costing. Does the Company have a job-cost accounting system? Yes No

If “no,” please explain what type of system is used to determine project costs: _____

C.3. Integration. Does the accounting general ledger interface with the job-cost ledger?

- Yes No N/A (no job-cost ledger used)

a. Are billings prepared from, or reconciled to, reports generated from the Company’s job-cost system?

- Yes No. Please explain: _____

b. Describe any manual procedures that occur outside of the automated accounting system to prepare billing packages. _____

C.4. Accounting Records. Which of the following types of records does the Company maintain to support financial transactions?

	<u>Yes</u>	<u>No</u>
a. General ledger	<input type="checkbox"/>	<input type="checkbox"/>
b. Cash disbursements journal	<input type="checkbox"/>	<input type="checkbox"/>
c. Cash receipts journal	<input type="checkbox"/>	<input type="checkbox"/>
d. Job/Project-cost ledger	<input type="checkbox"/>	<input type="checkbox"/>
e. Labor distribution reports	<input type="checkbox"/>	<input type="checkbox"/>
f. Employee expense reports	<input type="checkbox"/>	<input type="checkbox"/>
g. Payroll registers	<input type="checkbox"/>	<input type="checkbox"/>

C.5. Direct and Indirect Expenses. Does the general ledger contain separate direct and indirect accounts for the following?

- a. Labor costs Yes No
b. Non-labor expenses Yes No

If “no,” please explain: _____

C.6. Exclusion of Unallowable Costs. Does the Company have a system in place to identify and remove from the indirect cost pools all unallowable costs, in accordance with per FAR Part 31 and applicable Cost Accounting Standards? (See AASHTO Guide, Sections 2.2, 4.4, 5.2, 5.5, and 6.3.)

- No. Please explain: _____
 Yes. If “yes,” please answer a through c, below.

a. Please provide details about the system. _____

b. How are appropriate personnel trained to distinguish between allowable and unallowable costs?

c. When does the primary review for allowability occur—at time the transaction is recorded, or later?

AASHTO Internal Control Questionnaire for Consulting Engineers

C.7. Divisions/Cost Centers. Does the Company have more than one division/cost center?

No Yes

- If "yes," are separate ledgers maintained for each? Yes No

Comment: _____

C.8. Reconciliations.

a. Does the Company reconcile the financial accounting system to the job-cost system?

N/A (no job-cost ledger used).

No. Please explain: _____

Check here if systems are integrated:

Yes. If "yes," how often? (Check all that apply.) Monthly Quarterly Semi-annually Annually

Comment: _____

b. How frequently are bank statements reconciled? Who performs this process?

C.9. Budgeting. Does the Company use a budgeting system for project planning and oversight?

Yes No

Comment: _____

- If "yes," does the Company prepare variance reports to compare budgeted amounts to actual amounts on projects, and are the reports distributed to appropriate management personnel?

Yes No. If "no," please explain: _____

C.10. Cost Allocation. Does the Company use cost allocation methods consistently for all contracts, including commercial contracts as well as for State and Federal government contracts?

(See AASHTO Guide, Sections 5.3 and 10.5.)

Yes No. If "no," please explain: _____

C.11. Allocation Base(s). When computing indirect cost rates, the Company uses—

a single base for cost allocation. Description of base: _____

multiple bases for cost allocation. Description of bases: _____

(See AASHTO Guide Section 4.7 for a discussion of common allocation bases for indirect costs.)

C.12. Field Offices. Does the Company have field offices? (See AASHTO Guide Section 5.6.)

No

Yes. If "yes,"

a. Are separate indirect cost rates used for the home office and field offices?

Yes No

Please explain: _____

b. If home office and field office indirect cost rates are computed, are they presented consistently to all State DOTs?

Yes No. If "no," please explain: _____

Please check here if not applicable:

AASHTO Internal Control Questionnaire for Consulting Engineers

C.13. Project-Specific Indirect Cost Rate(s). Does the Company have any special, project-specific indirect cost rates negotiated with a State DOT?

No Yes. If “yes,” please explain, and list the States that use these rates: _____

D. Information Technology (IT) Systems

D.1. IT Policies. Does the firm have written IT system policies concerning the following topics?
(If “yes,” please provide a copy.)

	Yes	No
a. Hardware/Software		
• Purchasing	<input type="checkbox"/>	<input type="checkbox"/>
• Inventory	<input type="checkbox"/>	<input type="checkbox"/>
• Maintenance	<input type="checkbox"/>	<input type="checkbox"/>
• Access	<input type="checkbox"/>	<input type="checkbox"/>
• Use of In-house and off-site	<input type="checkbox"/>	<input type="checkbox"/>
• Addition and removal/retirement/disposition of	<input type="checkbox"/>	<input type="checkbox"/>
b. Business Continuation Plan	<input type="checkbox"/>	<input type="checkbox"/>
c. Security Protocol	<input type="checkbox"/>	<input type="checkbox"/>
d. Activation and deactivation of employees upon hiring or termination.	<input type="checkbox"/>	<input type="checkbox"/>

D.2. IT Risk Assessment. Has the Company’s management conducted an IT system risk assessment within the past three years?

Yes No

D.3. IT Security Review. Are system security and application access logs enabled and reviewed periodically?

Yes No

Comment: _____

D.4. IT Electronic Data Safeguards. If documents are retained in electronic format, are they stored in a format that cannot easily be modified, removed, or replaced, and does a mechanism/audit trail exist to track all such events?

Yes No

Comment: _____

AASHTO Internal Control Questionnaire for Consulting Engineers

E. Accounting – Payroll and Timekeeping

E.1. Payroll Service. Does the Company use an external payroll service?

No Yes. If “yes,” please specify: _____

E.2. Pay Cycle. What is the Company’s standard pay cycle?

Bi-weekly Monthly 1st & 15th Other (please specify): _____

If the Company uses more than one pay cycle, please explain: _____

E.3. Payroll Register. Does the payroll register include the following data?

	Yes	No
a. Employee Name.	<input type="checkbox"/>	<input type="checkbox"/>
b. Employee ID number.	<input type="checkbox"/>	<input type="checkbox"/>
c. Gross pay	<input type="checkbox"/>	<input type="checkbox"/>
d. Payroll deductions	<input type="checkbox"/>	<input type="checkbox"/>
e. Net pay	<input type="checkbox"/>	<input type="checkbox"/>
f. Check amount	<input type="checkbox"/>	<input type="checkbox"/>
g. Hourly rate	<input type="checkbox"/>	<input type="checkbox"/>
h. Pay period	<input type="checkbox"/>	<input type="checkbox"/>
i. Normal hours for pay period	<input type="checkbox"/>	<input type="checkbox"/>
j. Overtime hours for pay period	<input type="checkbox"/>	<input type="checkbox"/>

Comments: _____

E.4. Timekeeping System.

a. Does the Company use an electronic timekeeping system?

Yes No

- If “yes,” please provide an explanation of its operation, or provide system documentation:

b. Are all employees, including managers and owners/principals, responsible for signing their own timesheets?

Yes No

If “no,” please explain: _____

c. Are all employee timesheets approved by supervisors?

Yes No

If “no,” please explain: _____

d. Is there a certification and approval process required for all time worked by owners and principals?

Yes No

If “no,” then how is time accounted for and billed to projects? _____

e. How are timesheet coding errors detected and corrected?

f. How do timesheets identify work performed outside an agreement’s original scope of services?

AASHTO Internal Control Questionnaire for Consulting Engineers

F. Labor Cost Accumulation

F.1. Direct & Indirect Labor. Do the Company's timesheets include reporting codes for both direct and indirect hours? (See AASHTO Guide, Chapter 6.)

Yes No

- If "yes," do all employees, including managers and principals, record direct and indirect time on their timesheets?

- If "no," then please explain the method used to segregate direct and indirect labor hours. _____

F.2. Work Week. Please list the Company's normal hours of business operation (normal work week):

F.3. Uncompensated Overtime (see AASHTO Guide, Section 5.4). Does the Company record all hours worked by all employees, including managers and principals, regardless of whether the employees are exempt from overtime pay or whether all direct labor hours are billed to specific contracts?

No. If "no," please explain: _____

Yes. If "yes," which of the following methods does the Company use to account for *uncompensated overtime*—the hours worked without additional compensation in excess of an average of 40 hours per week by direct-charge employees who are exempt from the Fair Labor Standards Act?

Effective Rate Method. Please explain: _____

Salary Variance Method. Please explain. (E.g., What was the total dollar amount of the salary/payroll variance for the year?): \$_____

Other. Please explain: _____

F.4. Contract Modifications/Time Tracking. How does the Company segregate work performed under a basic agreement/contract from work performed for contract changes/modifications? _____

AASHTO Internal Control Questionnaire for Consulting Engineers

G. Labor Billings and Project Costing

G.1. Billing Rates. Please describe how billing rates are determined, or attach the Company's billing-rate policy.

- Description: _____
- Billing-rate policy attached.

G.2. Premium Overtime. Does the Company pay overtime at a premium to any employees? Yes No

- If "yes,"

a. What premium rate is paid, and what categories of employees are eligible for this rate?

- Time-and-a-half for all non-exempt employees.
- Other. Please explain: _____

b. How is the overtime premium accounted for and billed?

- As part of direct labor, and overhead is applied.
- As an Other Direct Cost (no overhead applied).
- As an indirect labor cost (included in the indirect cost rate).
- Other. Please explain: _____

G.3. Allocation of Overtime Costs. Are overtime costs allocated to contracts consistently, regardless of the type of contract (lump sum versus actual cost) or customer (government versus commercial)?

- Yes No. If "no," please explain: _____

G.4. Cost Allocation versus Billing. If the Company pays a principal or an employee at a rate in excess of a contract's maximum hourly labor rate, where will the excess cost be allocated/charged? _____

G.5. Contract/Purchased Labor. Does the Company invoice/bill contract labor directly to any customers?

- Yes No N/A

- If "yes," please complete the following: Contract labor is billed—

- As part of direct labor, and overhead is applied.
- As an Other Direct Cost (no overhead applied).
- Other. Please explain: _____

AASHTO Internal Control Questionnaire for Consulting Engineers

H. Expense Accumulation and Billing

H.1. Nonsalary Direct Costs (Other Direct Costs). Besides labor, what type of costs does the Company normally bill/invoice as direct expenses?

H.2. Credits Associated with Direct Costs. Is the indirect cost pool relieved/reduced for credits/reimbursements received for direct costs?

Yes No. If "no," please explain: _____

H.3. Design/Build Stipends. Has the Company received a stipend from any State DOT in connection with design/build efforts?

Yes No

- If "yes," please explain how the Company accounted for the stipend in the accounting system: _____

H.4. Classification of Cost Items. How are the following cost items accounted for and billed? (Check both "D" and "I," if applicable.)

(D = Direct; I = Indirect; N/A = not applicable)

	<u>D</u>	<u>I</u>	<u>N/A</u>
a. Vehicles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Computer Assisted Design and Drafting (CADD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Computer (non-CADD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Telephone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Printing / Reproduction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Postage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Lab	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Drilling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Travel and Subsistence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. GPS and/or Nuclear Density Meters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. Other (list if significant)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

H.5. Nonbillable Costs. Describe the accounting treatment for direct costs not billable to clients. (Where/how are these costs recorded?) _____

H.6. Authorization. How does the Company ensure that costs are not billed to Government projects prior to proper authorization?

H.7. Vehicle Expenses. Does the Company provide vehicles to employees for business purposes?

Yes No

a. If "yes," are the vehicles leased or owned?

Leased Owned

b. Identify the total number of vehicles owned or leased by the company.

_____ Leased _____ Owned

c. Are mileage logs maintained for all vehicles? If "no," please explain below.

Yes No

Explanation: _____

AASHTO Internal Control Questionnaire for Consulting Engineers

- d. Is mileage separated by direct and indirect classifications, and is mileage incurred in connection with unallowable activities tracked? Yes No
Explanation: _____
- e. What recovery/billing rate is used for Company vehicle mileage reimbursement?
\$ _____ per mile.
Explanation: _____
- f. How was the rate developed? _____

H.8. Computer Expenses. Are the Company's computer expenses incurred as a result of (select one):

- a. Outside Services? Company ownership? Both?
- b. Does the Company compute a charge rate for computers? Yes No
- If "yes," what is the rate? _____
- How was the rate developed? _____
- c. Is computer usage segregated by direct and indirect classifications? Yes No
- d. Are computer usage logs maintained and coded by job/project? Yes No

H.9. Printing and Reproduction Costs. How are printing and reproduction expenses treated?

- In House: Direct cost Indirect cost Combination of direct and indirect
- Outside vendor: Direct cost Indirect cost Combination of direct and indirect
- If you marked "combination of both," please explain: _____*
- a. For in-house services, are usage logs maintained and coded by job/project?
 Yes No
- b. Is usage segregated by direct and indirect classifications?
 Yes No
- c. If these costs are incurred through the use of an outside vendor, are the invoices coded by job/project when received?
 Yes No

H.10. Telephone Costs. How is the expense for telephone service recorded and billed?

- Direct cost Indirect cost Combination of direct and indirect
- If you marked "combination of direct and indirect," please explain below:*

- Does the Company maintain a telephone log to record toll calls? Yes No
- Are the calls job-coded by direct and indirect classifications? Yes No

AASHTO Internal Control Questionnaire for Consulting Engineers

J. Related-Party Transactions

J.1. Related Employees. Please provide the following information for all **employees** who are related to the parties listed in the Ownership Table (Table 1) shown in A.5:

Table 3: Employees Related to Company Owners

	Name or ID:	Title/Position:	Wages/Salary:	Bonus:	Other Compensation:	Total Compensation:
1			\$	\$	\$	\$
	Total Hours Worked During Year:	Job Duties: Related to: How Related (e.g., spouse, parent, child, sibling, in law):				
2			\$	\$	\$	\$
	Total Hours Worked During Year:	Job Duties: Related to: How Related:				
3			\$	\$	\$	\$
	Total Hours Worked During Year:	Job Duties: Related to: How Related:				
4			\$	\$	\$	\$
	Total Hours Worked During Year:	Job Duties: Related to: How Related:				
5			\$	\$	\$	\$
	Total Hours Worked During Year:	Job Duties: Related to: How Related:				
6			\$	\$	\$	\$
	Total Hours Worked During Year:	Job Duties: Related to: How Related:				
7			\$	\$	\$	\$
	Total Hours Worked During Year:	Job Duties: Related to: How Related:				
8			\$	\$	\$	\$
	Total Hours Worked During Year:	Job Duties: Related to: How Related:				

AASHTO Internal Control Questionnaire for Consulting Engineers

K. Other Questions

K.1. Life Insurance. Does the Company pay life insurance for officers/principals?

Yes No

- If "yes,"

(a) Have any costs associated with this life insurance been included on the indirect cost rate schedule?

Yes – total amount: _____ No

(b) Please identify the beneficiary of the life insurance:

Company/surviving partners Officer/principal's family

Other (specify) _____

(c) Please identify the type(s) of the life insurance:

Term Whole life Universal life Endowments (annuities)

Accidental death Other (please specify): _____

K.2. Suspension or Debarment. Has the Company, its parent, subsidiary, or any owner, stockholder, officer, partner, or employee of the Company been suspended or debarred from doing business by any State or the Federal government?

Yes No

- If "yes," please provide complete details: _____

K.3. Updates for Changes to FAR Part 31. Does the Company have an existing process designed to provide timely updates to company policies and procedures to accommodate changes in the FAR Subpart 31.2 cost principles?

Yes No

- If "yes," please describe the process: _____

K.4. Risk Assessment. Does the Company have a process for assessing risks that may result from changes in cost accounting systems or processes?

Yes No

- If "yes," please describe the process. How are risks identified and addressed? _____

K.5. Communications of FHWA/DOT Requirements. How does information flow from the FHWA/State DOT to appropriate management personnel? (E.g., How are relevant updates to State DOT procedures or Federal Regulations disseminated to project managers and accounting personnel?)

AASHTO Internal Control Questionnaire for Consulting Engineers

I certify that to the best of my knowledge and belief this ICQ is a complete and accurate representation of the above-named Company's cost accounting and billing practices.

Typed or Printed Name

Signature

Title

Date Completed

Note: The representations on this ICQ were made by, and are the responsibility of, the Company's management.

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