



CITY OF SUSANVILLE

Request for Proposals (#RFP16-01) Project Approval and Environmental Document for the Susanville Gateway Project

Submittal Information

Project Name: Project Approval and Environmental Document
for the Susanville Gateway Project

Due Date/Time: February 4, 2016; 3:00pm

Contact: Ian Simms, Project Manager

isimms@cityofsusanville.org (530) 252-5110

Delivery Location: 66 N. Lassen St., Susanville Ca, 96130

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1. Introduction

The City of Susanville is soliciting proposals for professional consulting services for the Project Approval and Environmental Documentation (PA&ED) process for the Susanville Gateway Project, located in the City of Susanville in Lassen County. The consultant must prepare appropriate technical studies, preliminary engineering and environmental compliance documents that satisfy NEPA and CEQA for federally funded transportation projects. Additionally, the process must include all the permitting and compliance with Caltrans and the Federal Highway Administration processes that position the project for final design, right of way and construction. The project is located on State Highway 36 near the southern city limits with goals of improving multi-modal facilities, vehicle conflicts, and the aesthetic nature of this commercial corridor. The City of Susanville will act as the lead agency for the project with the exception of the NEPA environmental process and documentation. Caltrans will be the lead agency with items pertaining to NEPA.

2. Correspondence

All questions and inquiries should be directed to:

Ian Simms, Project Manager
City of Susanville
66 N. Lassen St.
Susanville, CA 96130
(530) 252-5110
isimms@cityofsusanville.org

3. Proposal Submittal Deadline

All proposals must be received at the address listed above prior to **3:00 pm, February 4, 2016**. Three (3) paper copies and one (1) electronic copy (CD) of the proposal are required. Postmarks will not be accepted in lieu of actual receipt. All proposals shall be in a sealed envelope clearly marked "**PROPOSAL FOR SUSANVILLE GATEWAY PROJECT PA&ED – BID # RFP16-01.**" A separate cost proposal shall be submitted in a sealed envelope clearly marked "**COST PROPOSAL-SUSANVILLE GATEWAY PROJECT PA&ED – BID #RFP 16-01**". Late or incomplete proposals will not be considered.

4. Project Description

See Attachment A-PSR/PDS for concept design and other pertinent information.

"Project" is defined for the purposes of this RFP as the PA&ED component of the Susanville Gateway Project.

In Lassen County, in the City of Susanville, on State Route 36, from 0.1 mile south of Riverside Drive north to the north side of the Johnstonville Road intersection. The project will ultimately construct gateway enhancements including widening existing road shoulders; construct new A

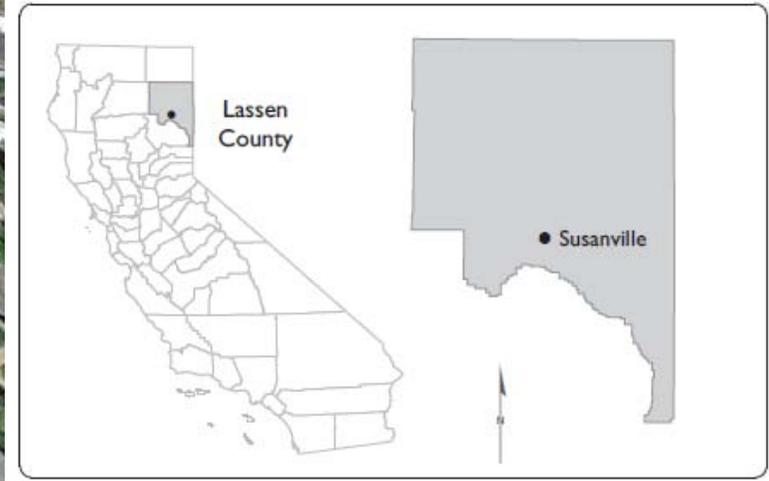
DA compliant curb, gutter, and sidewalk; install decorative safety lighting and remove standard 'cobra head' lighting, where possible; construct pedestrian safety rail on existing bridge over drainage ditch; construct new gateway sign and remove existing gateway sign; and install additional landscaping.

The project has an approved Project Study Report/Project Development Support (PSR/PDS) document (Attachment A) and funding is programmed through design in the State Transportation Improvement Program. As part of the PSR/PDS, a Mini-Preliminary Environmental Analysis Report (mini-PEAR) was completed (PSR/PDS - Attachment A) and should be used as a foundation for the PA&ED project component. The mini-PEAR identifies that a Categorical Exemption will likely meet the requirements for CEQA and a Categorical Exclusion will likely fulfill the NEPA requirements. It will be the responsibility of the selected project consultant to gain an understanding of the project through preliminary engineering and discovery to define the level of environmental documentation required.

This project is being implemented by the City of Susanville in cooperation with Caltrans providing independent quality assurance. The selected consultant will work cooperatively with the City of Susanville and Caltrans throughout the process to ensure efficiency of final approvals.

For the purposes of preparing a proposal, consultant will assume work to be completed in accordance with section, scope of services. However, consultant will need to be prepared to respond to requests for additional work, i.e. additional technical studies or more extensive environmental documents. Costs for additional work will be agreed upon by City and Consultant and a revised DBE goal will be established. Consultant's fee schedule, provided with the proposal, will be used to calculate costs for additional work, where applicable.

Project Location



5. Scope of Services

The consultant shall develop an approach to the following scope of work. The work shall be performed in accordance with the guidelines established by Caltrans and the Federal Highway Administration, including the Standard Environmental Reference, Local Assistance Procedures Manual, Project Development Procedures Manual, Highway Design Manual, Highway Capacity Manual and other required or accepted documents. Should the consultant wish to modify the project scope, please include justification and/or reasoning for the modification.

All deliverables shall include 3 hard copies and 1 electronic copy.

1. Project Management

The consultant shall provide project management for the work proposed. This includes managing sub-consultant contracts, preparing reports, maintaining project schedule, preparing monthly progress reports, invoicing, inter-agency coordination and any other work that leads to the successful and timely delivery of the PA&ED component of this project.

1.1. Project Administration

The consultant will administer the project following Local Assistance Procedures and procedures defined in other regulatory guidance that pertains to the specific task at hand. Consultant will maintain a filing system in conformance with the Caltrans Uniform Filing System as defined by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31.

1.2. Project Implementation Plan

A critical early activity will be to reach consensus with Caltrans on appropriate technical studies required to complete the PA&ED. The Consultant shall prepare a Project Implementation Plan that describes the overall project methodology, assumptions and roles of various entities involved in the PA&ED process. The project implementation plan shall include the development of a Project Delivery Team (PDT) and identify roles and responsibilities of the members.

1.3. Project QA/QC

Quality Assurance and Quality Control measures shall be included in the Project Implementation Plan and be maintained throughout the length of the project.

1.4. Project Progress Meeting and Reporting

Consultant shall hold regular meetings with the Project Development Team to discuss tasks, schedule and coordination efforts. Consultant shall submit monthly progress reports with invoices defining work that was completed during the month as well as anticipated upcoming tasks. Report shall also include updated project milestones and critical path targets. Should modifications be needed for milestones or critical path, explanation should be included in the monthly report. Additional, required meetings shall be identified in the proposal.

1.5. Presentations to City Council/Public

Consultant will be available for presentations of project alternatives to the public and to the Susanville City Council and assist with the technical components of project selection in an open and transparent format.

1.6. Project Meetings

The Consultant will hold, at a minimum, monthly project meetings with the PDT. Some of these meetings may be held by conference call or other remote method.

TASK 1 Deliverables

- 1A. Project Implementation Plan
- 1B. QA/QC Reporting
- 1C. Progress Reports
- 1D. Meeting Summaries

2. Traffic Studies

In order to develop design alternatives for the project, the consultant shall assess and analyze traffic conditions in the project area. A Traffic Engineering Performance Assessment (TEPA) was prepared as part of the PSR/PDS and should be used as a foundation for additional traffic studies (Attachment A). Consultant shall address items defined in the TEPA. The project has a goal of improving bicycle and pedestrian accessibility and safety and therefore traffic engineers should be cognizant of all modes of travel on the corridor.

2.1. Data Collection

Traffic count data exists for the project area, but turning movement data will assist in the development of design alternatives. Counts will be necessary for the intersection that provides access to the Safeway commercial complex. Additionally, existing pedestrian facilities should be inventoried and described.

2.2. Existing Conditions Analysis

The consultant shall utilize gathered data and assess the existing conditions to identify data gaps and areas of focus for the analysis and traffic report. All pedestrian facilities are required to be compliant with the American Disabilities Act and the analysis should reflect findings from intersection crossing length data, actuator and signal head deficiencies.

2.3. Traffic Report

The traffic report should be developed to support the development of engineering design for the project and assist in selecting the appropriate project alternative for NEPA. The report should include forecasts consistent with the projections developed in the 2012 Lassen County Regional Transportation Plan.

Task 2 Deliverables

- 2A. Traffic Report

3. Preliminary Engineering

Preliminary Engineering shall consist of developing project alternatives sufficiently to make a determination of a preferred alternative for the purposes of satisfying CEQA and NEPA. This task shall utilize the project alternatives identified in the PSR/PDS as a foundation and develop additional alternatives should they be determined necessary. Preliminary engineering will include requests for information for utilities, right of way, and permits, defining and refining the study alternatives, preparing base mapping, developing preliminary utility and right of way impacts, preparing preliminary cost estimate, preparing a drainage study and preparing alternative designs sufficient to satisfy NEPA and CEQA.

3.1. Data Collection and Review

Collection of data to prepare preliminary engineering alternative designs and project report.

This includes sufficient right of way investigations to determine the extent of right of way needs for the programming purposes. This does not include final surveying which will be performed in

the PS&E phase of the project. Construction surveys will be completed in a later phase of the project.

3.2. Base mapping

Base mapping should be developed to support engineering, design work and right of way determination.

3.3. Develop Alternatives

Alternatives should be developed based on the alternatives identified in the PSR/PDS. Should the preferred alternative not be sufficient to satisfy environmental requirements, additional alternatives must be developed for inclusion in the preferred alternative selection process.

3.4. Preliminary Engineering Drawings

Engineering drawings shall be developed for each alternative to the point that allows the project team to understand the impacts to environmental resources and to develop accurate cost estimates. This includes utility and right of way requirements. Additional engineering may be required for the pedestrian safety fencing that may be required adjacent to the sidewalk on the box culvert spanning the drainage ditch in the middle of the project area.

3.5. Preliminary Cost Estimate

Consultant will develop cost estimates for the appropriate design alternatives. Costs shall be escalated to reflect year of construction costs.

3.6. R/W Documentation

Part of the preliminary engineering will include documentation of impacts to right of way for each alternative considered. The PSR/PDS identified alternatives that had little to no impact on right of way outside the existing State facility right of way. However, right of way impacts must be identified and defined in the preliminary engineering task to assist with the environmental documentation and project cost estimates.

3.7. Draft Project Report

The project report will evaluate the alternatives defined in the PSR/PDS and additional alternatives should they develop during the PA&ED process based on engineering or environmental opportunities and constraints. The draft report will consolidate traffic studies, right of way, design alternatives and related engineering work for use in the environmental documentation, developing accurate project cost estimates and to support future final design of the preferred alternative. The draft project report will be circulated to the City of Susanville and Caltrans for review and comment.

3.8. Final Project Report

Any comments received will be addressed in the final project report. The findings from the final project report will be presented to the Susanville City Council.

Task 3 Deliverables

- 3A. Project alternative descriptions and narrative comparison
- 3B. Preliminary engineering drawings
- 3C. Preliminary cost estimate
- 3D. Draft project report
- 3E. Final project report

4. Environmental Technical Studies

The project is not expected to have any significant impacts to the environment based on findings in the PSR/PDS and associated Mini-PEAR documents. To support this expectation, the consultant shall consider the special considerations identified in the Mini-PEAR and conduct the recommended 4 technical studies. These include:

- Biological
- Archaeological

It is not anticipated that subsurface investigations will be required. However, should the consultant recommend otherwise based on their understanding of the project and in accordance with the Standard Environmental Reference, they shall include this in the proposal.

- Hazardous Waste
- Water Quality

Should the consultant identify a need for technical studies beyond these, they shall submit a scope and schedule in their proposal that defines the study and need.

Task 4 Deliverables

- 4A. Memo defining technical study requirements
- 4B. Technical studies

5. Prepare Environmental Document

Caltrans prepared a mini-Preliminary Environmental Analysis Report for the PSR/PDS and it was anticipated that a Categorical Exemption will fulfill the CEQA requirements and a Categorical Exclusion will fulfill the NEPA requirements. The consultant will use this and the information identified in the preliminary engineering and technical environmental studies as a platform for determination. The consultant shall prepare the required analysis and documentation for a CE/CE. The environmental documentation should be developed following environmental protocols set forth by Caltrans and the Federal Highway Administration and use project information from the preliminary engineering task and environmental discussion from the PSR/PDS Mini-PEAR.

5.1. Public Outreach

The consultant will foster the appropriate public outreach campaign that ensures the project alternatives are made publically available and provides adequate public comment forums. The City of Susanville will assist with the consultant team with facilitating public outreach efforts.

5.2. Categorical Exemption/Categorical Exclusion (Draft)

A CE/CE shall be prepared that meets the requirements for compliance with CEQA and NEPA. This document should be developed following the appropriate procedures defined by Caltrans.

5.3. Circulation of CE/CE

The CE/CE shall be circulated to Caltrans and City of Susanville for comment.

5.4. CE/CE Final

The delivery of the final CE/CE and project report from the preliminary engineering task will allow the posting of a Notice of Exemption with Lassen County and the State Office of Research and Planning and submittal to FHWA and position the Susanville Gateway Project for the next project stage of developing the final design. Additionally, the completion of the PA&ED project

component will define a preferred project alternative with sufficient design to estimate costs and pursue additional funding for programming.

Consultant will need to be prepared to address potential expansion of the required environmental documents. Discovery, during the preparation of the environmental and/or scope changes may necessitate expansion of the environmental document. These may include:

CEQA: Initial Study/Neg Dec ; Initial Study / Mitigated Neg Dec
NEPA: EA / FONSI

Task 5 Deliverables

- 5A. Draft CE/CE
- 5B. Final CE/CE

6. Environmental Permitting

The consultant will assist the City with environmental permitting and agency coordination.

6.1. Application Development

Consultant will prepare required permit applications and submit to the City for review and distribution.

6.2. Agency Coordination

Consultant will coordinate with resource agencies to ensure timely permit issuance.

6.3. Compliance Assurance

The consultant will ensure the City of Susanville meets all environmental requirements for the successful completion of the Susanville Gateway Project.

Task 6 Deliverables

- 6A. Environmental permitting and compliance assurance plan
- 6B. Permit applications
- 6C. Coordination documentation

6. Project Schedule

The PSR/PDS was approved by Caltrans on December 13, 2013 and funding for PA&ED and PS&E was programmed in the 2014 STIP. Authorization for PA&ED was approved on May 1, 2015. PS&E is being reprogrammed in the 2016 STIP to FY 16/17. The consultant shall submit a detailed project schedule, including milestones that display this project phase being complete by December 31, 2016. Should the consultant feel this is not achievable, an alternative project schedule should be proposed for consideration. Right of Way and construction funding have not been secured yet.

7. Proposal Format and Required Contents

A. General

1. All interested and qualified Consultants are invited to submit a proposal for consideration. Submittal of a proposal indicates that the Consultant has read and understands this entire RFP, to include all appendices, attachments, exhibits, schedules, addenda (as applicable) and all concerns regarding this RFP.

2. Proposals must be submitted in the format described below. Proposals shall be prepared in such a way as to provide a straight forward, concise description of capabilities to satisfy the requirements of this RFP. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.
3. Proposals must be complete in all respects as required in this section. At the City's discretion, a proposal may not be considered if it is conditional or incomplete.
4. In developing the proposal the Consultant should carefully review this proposal to take into consideration the rights, obligations, and costs associated therewith. Consultants are encouraged to prepare a scope of work based on their understanding of the project and the required process. Should that differ from any language recommended in this RFP, please explain the recommended approach and why it differs from the RFP.

a. Consultant Services Proposal Contents

(3) Copies of the written proposals and one electronic copy are required to be submitted. An individual authorized to bind the Consultant firm shall sign the original cover page and cost proposal.

A separate cost proposal must accompany the Consultant services proposal. The cost proposal shall indicate the expected total fee for the work described in the Consultant services proposal. The total fee shall also be itemized by task, including time and hourly rates, and other direct costs such as printing and travel. Additional services and options may be included in the proposal, but must be clearly indicated as "additional services."

1. **Statement of Certification** – Include the following in the proposal:
 - a) A concise statement of the services proposed, clearly labeled "Consultant services for the Project Approval and Environmental Document phase of the Susanville Gateway Project, City of Susanville, California;"
 - b) A statement that the Consultant will provide the services as described in the proposal within the time frames as outlined in the RFP or recommended as part of the Consultant services proposal;
 - c) A statement that all aspects of the proposal, including cost, have been determined independently, without consultation with any other prospective Consultant or competitor for the purpose of restricting competition;
 - d) A statement that the Consultant agrees that aspects of the RFP and the proposed submittal shall be binding if the proposal is selected and the contract awarded;
 - e) A statement that the Consultant agrees to provide the City with any other information determined necessary for an accurate determination of the Consultant's ability to perform services as proposed;
 - f) A statement that the prospective consultant, if selected, can comply with terms and details of the attached standard City of Susanville consultant agreement (Attachment C);
 - g) A statement that the prospective Consultant, if selected, will comply with all applicable rules, laws, and regulations.
2. **Proposal Description** - A detailed description of the proposal being made, to include the following:

- a) Brief synopsis of the Consultant's understanding of the project and the project objectives;
 - b) Narrative description of the proposed approach to achieve the project objectives and meet requirements;
 - c) Detailed scope of work;
 - d) Milestones and deliverable charts;
 - e) Proposed timeline taking note that the City is very interested in an expedited process.
 - f) Staffing and assignment of key personnel;
3. **Statement of Experience** – Include the following in the proposal:
- a) Business name, address, and phone/fax numbers of the prospective Environmental Review Consultant and legal entity such as corporation, partnership, etc.
 - b) Number of years the prospective Environmental Review Consultant has been in business under the present business name, as well as related prior business names;
 - c) A statement that the prospective Environmental Review Consultant has a demonstrated capacity to perform the required services;
 - d) List any applicable licenses or permits presently held and indicate ability to complete the required services;
 - e) A statement that the Consultant has an organization that is adequate to perform the required services.
 - f) A statement of qualifications for the proposed project highlighting the firm's specific experience with projects similar to this.
4. **Similar Contracts** – Recent contracts involving similar projects.
- a) For each contract show:
 - i. Date of completion and duration of each contract
 - ii. Type of service
 - iii. Total dollar amount
 - iv. Name, address, and phone/fax number of agency with which contracted and agency contact person administering the contract. If none, so state.
 - b) If any contract was terminated prior to the original termination date during the last five years, please explain the reasons for the contract termination.
 - c) Related contracts currently in effect – show the following for each contract:
 - i. Date due for completion and duration of contract;
 - ii. Type of service
 - iii. Total contract amount
 - iv. Name, address, and phone/fax or e-mail numbers of agency with which the organization is currently contracting and agency contact person administering the contract. If none, so state.

- d) References. Provide a minimum of three (3) professional references for similar contracts, either in progress or completed within the past five (5) years. Please provide the name, address, and telephone number for each of these references and a brief description of the contract(s) for which the Consultant provided services.
 - e) Describe controlling interests held in any other firms providing equivalent or similar services. If none, so state.
 - f) Describe financial interest in other lines of business. If none, so state.
 - g) Describe any pending litigation involving prospective Consultant or any officers, employees, and/or Consultants thereof, in connection with contracts. If none, so state.
 - h) A statement that the Consultant does not have any commitments or potential commitments which may impact on the Consultant's ability to perform the contract services.
 - i) Statement that the Consultant does not have any financial conflicts of interest with City of Susanville or its representatives.
5. **Staffing** – Key Personnel and Consultant Information
- a) Describe the experience, qualifications, and other vital information, including relevant experience on previous similar projects, of all key individuals who may be assigned to the project. Key personnel include partners, managers, associates and other professional staff that will perform work and/or services in this project. This information shall include functions to be performed by the key individuals.
 - b) If the Consultant plans to subcontract any portion of the service delivery described in the RFP, the Consultant must include a written summary of proposed subcontractors. Attach a statement from each subcontracted consultant that includes the name and address of that organization/firm, type of work to be performed and percentage of the total work of the proposal. The statement must also affirm that the sub-contracted consultant will perform all work indicated and will comply with all items as indicated above.
6. **Insurance** – the consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, employees, or sub consultants.

Minimum Scope of Insurance. Coverage shall be at least as broad as:

- a) Insurance Services Offices Commercial General Liability coverage (occurrence form CG0001).

- b) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
- c) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- d) Errors and Omissions Liability insurance as appropriate to the consultant's profession.

Minimum Limits of Insurance. Consultant shall maintain limits no less than:

- a) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- c) Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
- d) Errors and Omissions Liability: \$1,000,000 per occurrence.

Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7) Schedule:

Proposal shall include a schedule for work proposed.

8) DBE Forms:

Firms are required to submit Exhibit 10-O1 *Consultant Proposal DBE Commitment* with their proposal. Exhibit 10-O2 will be developed prior to any negotiations with the top ranked firm. See section 11 for further information on the DBE requirements.

9) Non Lobbying Certification:

Firms are required to sign Non Lobbying Certification for Federal-Aid Contracts that is included as Attachment C and submit it with their proposals.

10) Standard Contract Review

Firms shall include a statement in their proposal that confirms they have reviewed the City of Susanville Professional Services Agreement contract and can comply with the items therein. Should any items in the contract be unacceptable to the consultant, a statement explaining the reason for anticipated modifications to the contract prior to execution.

11) Prevailing Wage Agreement

Consultant shall provide a statement of willingness to comply with California Labor Code, Section 1770 regarding prevailing wage requirements. The consultant is responsible for determining required components of the project that fall into the prevailing wage requirements. The requirements are as follows:

- A. Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with the California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair or maintenance of public works, shall contain all the provisions of this Article.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations as outlined in the applicable Prevailing Wage Determination.

b. Cost Proposal Content

Cost proposal to be submitted in separate, sealed envelope.

Consultants must prepare a detailed cost estimate for the proposed scope of services. The cost estimate must include a breakdown of tasks, sub-consultant costs, all hourly rates, markups, and direct costs. The estimate must include a "not to exceed" cost for each task. In addition, the City will be using an actual cost payment methodology as defined in Section 10.2 of the LAPM. **Consultants must submit LAPM Exhibit 10-H** with their cost proposal. The project cost estimate shall be submitted in a separate, sealed envelope and clearly marked "**COST PROPOSAL-SUSANVILLE GATEWAY PROJECT PA&ED – BID # RFP16-01**".

8. Federal Aid Contracting Requirements

The consultant must comply with federal and state contracting requirements and include 3 required forms with their proposal. These include a non-lobbying certification (Attachment C), a cost proposal breakdown (LAPM Exhibit 10-H) and Disadvantaged Business form 10-01 as defined in section 13.

9. Proposal Evaluation and Selection

All proposals will be reviewed by City staff with the primary consideration being the Consultant's experience with similar projects, ability to perform proposed work, understanding of work to be completed. Interviews may be conducted with the most qualified firms based on the proposals submitted. The City will negotiate a contract with the highest ranked firm based on the submitted Cost Proposal. Should negotiations fail to result in a contract, the next highest ranked and qualified firm will be asked to negotiate with the City.

Proposals will be ranked using the following scoring criteria:

Experience with similar projects	25%
Project approach	25%
Qualifications of the firm	20%
Familiarity with State and Federal procedures	20%
References	10%
Total	100%

10. Disadvantaged Business Enterprise – DBE

The most recent DBE form 10-O1 from the Local Assistance Procedures Manual can be downloaded from the Caltrans Local Assistance website linked below and must be completed and included in the Consultants proposal.

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/lapmforms.htm>

The City of Susanville has established a DBE goal for Task 1 at **12%**.

The City of Susanville will revise the DBE goal in the event that additional technical studies, or expanded environmental documents are required.

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

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

LAPM Exhibit 10-O2 *Consultant Contract DBE Information* should not be included in the proposal. This form shall be requested from the top ranking consultant prior to entering contract negotiations.

4. DBE PARTICIPATION GENERAL INFORMATION

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, sub consultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 2. The proposer will meet the goal through work performed by DBE sub consultants, suppliers or trucking companies.
 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one sub consultant for each portion of work as defined in their proposal and all DBE sub consultants should be listed in the bid/cost proposal list of sub consultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE sub consultants.

5. RESOURCES

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

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

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

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

ATTACHMENT A-
Project Study Report-Project Development Support Document

**Project Study Report-Project Development Support
(PSR-PDS)**

To

**Request Programming for Capital Support
in the 2014 STIP
for the Southeast Susanville Gateway Project**

On Route 36
Between Johnstonville Road
And East Riverside Drive

APPROVAL RECOMMENDED:



Dan Newton, *City of Susanville*

APPROVAL RECOMMENDED:



Dave Moore, STIP Manager
Deputy District Director of Planning and Local Assistance

APPROVED:



John Bulinski, P.E., District 2 Director

12/13/13
DATE

This project study report-project development support has been prepared under the direction of the following registered civil engineer. The registered civil engineer attests to the technical information contained herein and the engineering data upon which recommendations, conclusions, and decisions are based.



REGISTERED CIVIL ENGINEER

12/12/13

DATE



Vicinity Map



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1. INTRODUCTION

Project Description:

This State Transportation Improvement Program (STIP) PSR-PDS proposes to improve continuity of pedestrian access in Lassen County, in the City of Susanville, on State Route 36 from PM 26.2 to 26.5. This area is access controlled and no new connections are associated with this project. New curb gutter, and sidewalk, Americans with Disabilities Act (ADA) compliant ramps and widened shoulders will be constructed; pedestrian and intersection lighting will be installed. Existing substandard pedestrian facilities within the project limits will be replaced. Design exceptions may be needed based on existing topography or other physical limitations. The potential for design exceptions is included in the risk assessment. All new and existing curb ramps will be constructed or replaced to comply with DIB 82-05. Improved gateway sign will be constructed and landscaping improvements made.

Project Limits	02-Las-36 26.2/26.5
Number of Alternatives	1 build alternative plus no project
Current Capital Outlay Support Estimate for PA&ED/PS&E	\$160,000 PA&ED / \$120,000 PS&E
Current Capital Outlay Construction Cost Range	\$1 million - \$2 million
Current Capital Outlay Right-of-Way Cost Range	\$10,000
Funding Source	STIP/Other funding sources
Type of Facility	4 lane conventional hwy with left turn pockets
Number of Structures	1
Anticipated Environmental Determination or Document	CEQA: Cat Ex, NEPA: CE
Legal Description	In Lassen County in and near Susanville from Johnstonville Road to East Riverside Drive
Project Development Category	N/A

Programming is proposed for the PA&ED and PS&E components of the project. (\$160,000 PA&ED for FY 14/15 and \$120,000 PS&E for FY 15/16). The remaining capital outlay support, right-of-way, and construction components of the project are preliminary estimates and are not suitable for programming purposes. A Project Report will serve as the programming document for the remaining components of the project. A Project Report will serve as approval of the “selected” alternative. If any design exceptions are needed they will be reviewed and approved at the Project Approval & Environmental Document (PA&ED) phase. A drainage study will be prepared during the PA&ED phase of the project.

A maintenance agreement between the City of Susanville and Caltrans will be executed showing the City of Susanville will be responsible for upkeep of the facilities and landscaping within the State right-of-way.

The City of Susanville is the Implementing Agency for the project. Caltrans has Independent Quality Assurance (IQA) responsibilities as owner/operator of the facility. As the implementing Agency the City will assume the primary role in project administration, construction, and closeout. There will be multiple check-ins and reviews on the project with Caltrans District and HQ staff throughout the development of the project.

2. BACKGROUND

State Route 36 is an important interregional route that serves local, regional, and interregional traffic. SR 36 passes through a diverse range of topography and climate regions as it crosses northern California across six counties (Humboldt, Trinity, Shasta, Tehama, Plumas and Lassen) between the Pacific Ocean to US 395 in Lassen County, and serves as a major connector for both truck and automobile traffic.

Through the project limits State Route 36 is on the National Highway System and is included in the Interregional Road System. This section of State Route 36 is also a High Emphasis Route, and an Interregional Transportation Strategic Plan Focus Route.

State Route 36, at the southern edge of the City of Susanville, through the project limits is a four-lane conventional highway with left-turn pockets at signalized intersections and major commercial driveways. This segment of SR 36 is within “access control” limits.

The project proposes to install gateway enhancements in a context-sensitive manner, provide a complete street, by completing the pedestrian network and providing additional widening to accommodate a class III bicycle facility, through the project limits, and improve economic vitality by identifying a sense of place to travelers entering the southern City limit.

The project is sponsored by the City of Susanville and is supported by the Lassen County Transportation Commission (LCTC) which has prioritized the project for programming in the 2014 State Transportation Improvement Program. This project has been included in the 2014 Regional Transportation Improvement Program.

The City and the LCTC participated in the project description, concept, and purpose and need statements.

3. PURPOSE AND NEED

Purpose:

The purpose of the proposed project is to improve pedestrian safety and contribute to economic vitality of the City of Susanville.

Need:

Within the project limits there is a lack of pedestrian facility continuity limiting pedestrian access and visual cues to the traveling public that encourage commerce.

4. TRAFFIC ENGINEERING PERFORMANCE ASSESSMENT

The Susanville South Gateway Enhancement project is almost entirely a sidewalk and landscaping improvement project intended to improve pedestrian safety and circulation and revitalize the south end of Susanville. No changes will be made regarding the number or width of travel lanes. Existing lane configurations and traffic controls will be maintained at all intersections, and all driveways/access points to SR 36 “Main Street” will remain in their current state.

At this time, it appears the proposed project would have the potential to affect roadway operations with slight changes in signal timing.

A cooperative agreement will be required for work requested of Caltrans. This PSR-PDS serves as a cooperative agreement report.

Preliminary Assessment Findings

The project would improve pedestrian safety and circulation opportunities, consistent with complete street goals, by providing walkways elevated and separated from the roadway using standard curb and gutter. Pedestrians must currently walk on the shoulder of a roadway with a posted 45 mph speed limit.

The project should, and proposes to, evaluate and reconnect marked crosswalks at the signalized intersections in locations that will provide shorter crossing distances and better visibility from driver’s perspectives. The newest style pushbuttons must be located in accordance with ADA requirements and some sidewalk/curb ramp or traffic signal modifications could be necessary to accomplish that. In addition, existing curb ramps will be brought up to ADA standards.

Similarly, the project will identify the best location for the unsignalized/uncontrolled pedestrian crossing of the commercial driveway located on the west side of SR 36 approximately 550 feet north of Riverside Drive.

The project includes adding standard pedestrian signal features (push buttons and pedestrian signal heads) at both the Riverside Drive and Johnstonville Road intersections to provide pedestrian crossings on all legs of the intersections. No other traffic control system revisions or additions are proposed at this time.

The project is not anticipated to cause any significant operational issues. A slight increase in vehicular delay could potentially result at the Riverside Drive and Johnstonville Road intersections with SR 36 associated with additional pedestrian phases. However, the pedestrian crossing volumes are expected to be low and the potential delay increases also very low.

All landscape features will be designed and located in a manner that provides appropriate sight lines in accordance with Caltrans design standards.

The project proposes shoulder widening in areas. These areas are for maintenance use.

Scope of Future Traffic Engineering Studies, Activities, & Tasks

Based on the proposed project elements and preliminary findings, it seems prudent that the PA&ED phase for this project include the following traffic engineering related evaluations:

- AM & PM Peak hour intersection Level of Service analysis for the SR 36/Riverside Drive and SR 36/Johnstonville Road intersections demonstrating the affects of adding additional pedestrian phases at these two existing signalized intersections.
- Determine the scope and probable construction cost of traffic signal modifications necessary to add the pedestrian phases, push button detection, and pedestrian signal indications.
- Identify the most appropriate location for a pedestrian crossing of the commercial driveway located approximately 550 feet north of Riverside Drive.
- Discuss any special requirements for the wide shoulder area related to chain-up activities.
- Provide the sight triangle requirements and/or exhibits for proper placement/setback of landscape and streetscape features.
- Prepare a pedestrian detour plan as requested by Caltrans in the Transportation Management Plan Data Sheet dated 11/21/13.

- Provide a Transportation Management Plan (TMP), to be prepared by Caltrans or by others.

5. DEFICIENCIES

No significant non-standard roadway features are identified. The primary transportation system deficiency is the lack of a pedestrian facility through the project limit. The project will install sidewalks in both the eastbound and westbound directions.

6. CORRIDOR AND SYSTEM COORDINATION

The project is consistent with the January 2012 State Route 36 Transportation Concept Report. The project will also be coordinating with the CAPM project which is scheduled for construction in FY 16/17.

7. ALTERNATIVES

There are two alternatives identified in this report: a Build Alternative and a No Project alternative. Exhibits showing the Build Alternative are included in Attachment B.

Design Standards Risk Assessment			
Alternative	Design Standard from Highway Design Manual Tables 82.1A & 82.1B	Probability of Design Exception Approval (None, Low, Medium, High,)	Justification for Probability Rating
Build	<i>Non-standard design features are not anticipated.</i>		

8. RIGHT-OF-WAY

It is anticipated that the project can be constructed within the state right of way, however, during the PA&ED phase it may be determined that temporary construction easements or permits to enter and construct are necessary. Also during PA/ED it may be determined that a utility easement is needed to bring electrical service to City-maintained landscaping and lighting. The cost and level of effort/involvement of Right of Way will be determined during PA&ED.

Utilities: When work in cities is performed utility relocation is often required. Although it is not anticipated that utility relocations will be necessary, a risk exists that there may be utilities identified during PA&ED.

Railroad: No railroad is involved in the project.

9. STAKEHOLDER INVOLVEMENT

The project has a high degree of community support and has been previously identified, reviewed by the public, and given a high regional priority in the 2012 Lassen County Regional Transportation Plan. The Lassen County Transportation Commission is supportive of the project and will be involved throughout the project development.

Area residents that walk along the unimproved shoulder of the State Route 36 support the construction of the project.

Caltrans will be involved as owner/operator of the state facility and have schedules of deliverables and provide approvals as required.

Area business fully support the project for its benefits to gateway aesthetics and the related economic vitality objectives of the project.

10. ENVIRONMENTAL DETERMINATION/DOCUMENT

In order to identify environmental issues, constraints, costs and resource needs, a mini-PEAR (Preliminary Environmental Analysis Report) was prepared for the project. It is important to note that all technical studies will be deferred to the Capital phases of the project. In addition, during the project development, proposed staging areas, disposal sites, utility relocation plans, and construction site access requirements will be needed to be included as part of this project. For environmental engineering, resources and time were estimated to meet an aggressive schedule. With regard to the conceptual plans being presented at this stage, it is anticipated that a Categorical Exemption will fulfill CEQA requirements and that a Categorical Exclusion would fulfill the NEPA requirement. Based on existing workload and available resources, it is estimated to take 10-12 months to complete the environmental process through PA&ED. If permits will be required for drainage improvements, at least 6 months will be needed between PA&ED and PS&E. If possible, Environmental Planning would like to receive the ESR for environmental clearance for this project no later than February of a given year in order to complete any required surveys during the spring.

11. FUNDING

It has been determined that this project is eligible for federal-aid funding.

Capital Outlay Project Estimate (all figures x \$1,000)

	Range of Estimate		STIP Funds		
	Construction	Right-of-Way	Construction	Support Costs	Right-of-Way
Alternative 1	\$1,000-2,000	10	1,100	280	10

Capital Outlay Support Estimate

Capital outlay support estimate for programming PA&ED in the 2014 STIP for this project: \$160,000. Programming for PS&E in the 2014 STIP for this project: \$120,000.

12. SCHEDULE

Project Milestones		Scheduled Delivery Date (Month/Day/Year)
PROGRAM PROJECT	M015	3/20/2014
BEGIN ENVIRONMENTAL	M020	7/1/2014
PA & ED	M200	6/30/16

The anticipated funding fiscal year for construction is 2017/18.

13. RISKS

Issues that would normally be resolved before completion of the PID will not be addressed and could lead to higher costs, delays, and less than optimal results.

The overall potential for risks to project budget and schedule are minimal as the project will be within the existing State Highway right-of-way.

Additional potential risks include design exception potential and any utility relocation needs. These will be determined during the PA&ED phase.

Additional partnering opportunities may be recognized.

14. FHWA COORDINATION

This project is considered to be an Assigned Project in accordance with the current Federal Highway Administration (FHWA) and Department of Transportation (Caltrans) Joint Stewardship and Oversight Agreement.

15. PROJECT REVIEWS (CT WILL DO)

Formal reviews will occur during the project development phase.

16. PROJECT PERSONNEL

Jared Hancock Susanville City Administrator	(530) 252-5100
Dan Newton City Engineer	(530) 252-5100
Craig Sanders Susanville City Planner	(530) 252-5104
Larry Millar, Lassen County Transportation Commission	(530)-251-8299
Jeff Schwein Consultant Project Manager	(530) 895-1109
Matt Boyer Consultant Project Transportation Planner	(916) 221-2688
Loren Chilson, PE Consultant Project Engineer	(530) 897-0199

17. ATTACHMENTS

- A. Location and/or vicinity map
- B. Schematic maps of the study area or alternatives
- C. Capital Outlay Project Estimate
- D. Typical Cross Sections
- E. Preliminary Environmental Analysis Report (PEAR)
- F. Transportation Planning Scoping Information Sheet
- G. Right-of-Way Conceptual Cost Estimate Component
- H. Risk Register
- I. Traffic Engineering Performance Assessment
- J. Data Sheets

ATTACHMENT B-
City of Susanville Professional Services Agreement

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ARTICLE I INTRODUCTION

- A. This contract is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, LOCAL AGENCY:

The name of the "CONSULTANT" is as follows:

Incorporated in the State of (*NAME OF STATE*)

The Project Manager for the "CONSULTANT" will be (*NAME*)

The name of the "LOCAL AGENCY" is as follows:

City of Susanville

The Contract Administrator for LOCAL AGENCY will be (*NAME*)

- B. The work to be performed under this contract is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal dated (*DATE*). The approved CONSULTANT's Cost Proposal is attached hereto (Attachment B) 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 indemnify and hold harmless LOCAL AGENCY, its officers, agents, and employees from any and all claims, demands, costs, or liability arising from or connected with the services provided hereunder due to negligent acts, errors, or omissions of CONSULTANT. CONSULTANT will reimburse LOCAL AGENCY for any expenditure, including reasonable attorney fees, incurred by LOCAL AGENCY in defending against claims ultimately determined to be due to negligent acts, errors, or omissions of CONSULTANT.
- D. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY.
- E. Without the written consent of LOCAL AGENCY, this contract is not assignable by CONSULTANT either in whole or in part.
- F. No alteration or variation of the terms of this contract shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- G. 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 STATEMENT OF WORK

Scope of Services are outlined in Request for Proposals (Attachment A, Section 5).

- A. Consultant Services

The CONSULTANT shall develop an approach to the scope of work outlined in the Request for Proposals (Attachment A). The work shall be performed in accordance with the guidelines established by Caltrans and the Federal Highway Administration, including the Standard Environmental Reference, Local Assistance Procedures Manual, Project Development Procedures Manual, Highway Design Manual, Highway Capacity Manual and other required or accepted documents. Environmental documents are not considered complete until

signed by appropriate Caltrans official.

B. Right of Way

Right of Way requirements are to be determined and shown by CONSULTANT, This includes sufficient right of way investigations to determine the extent of right of way needs for the programming purposes. See Attachment A, Section 5, 3.1.

C. Surveys

Construction Surveys will not be required. See Attachment A, Section 5, 3.1.

D. Subsurface Investigations

It is not anticipated that subsurface investigations will be required by the CONSULTANT. However, should the CONSULTANT recommend otherwise based on their findings and in accordance with the Standard Environmental Reference, a contract amendment will be created to address the additional scope of work. See Attachment A, Section5, 4.

E. Local Agency Obligations

Applicable data to the project is available to CONSULTANT in Attachment A.

F. Conferences, Visits to Site, Inspection of Work

CONSULTANT shall hold regular meetings with the LOCAL AGENCY to discuss tasks, schedule and coordination efforts. CONSULTANT shall submit monthly progress reports with invoices defining work that was completed during the month as well as anticipated upcoming tasks. Report shall also include updated project milestones and critical path targets. Should modifications be needed for milestones or critical path, explanation should be included in the monthly report. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee. See Attachment A, Section 5, 1.4.

G. Consultant Services During Construction

No construction drawings will be prepared by the CONSULTANT during the course of this contract.

H. Documentation and Schedules

CONSULTANT will document the results of the work to the satisfaction of LOCAL AGENCY, and the State and FHWA. See Attachment A, Section 5, 1.4 and 1.6.

I. Deliverables and Number of Copies

All deliverables shall include 3 hard copies and 1 electronic copy. See Attachment A, Section 5.

ARTICLE III CONSULTANT’S REPORTS OR MEETINGS

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

ARTICLE IV PERFORMANCE PERIOD

- A. This contract shall go into effect on (DATE), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY’S Contract Administrator. The contract shall end on (DATE), unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY

until the contract is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. The method of payment for this contract will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work
- CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY'S approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.
- B. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$(AMOUNT). The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.
- C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal (Attachment B).
- D. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT'S fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.
- F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.
- G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT'S work. Invoices shall be mailed to LOCAL AGENCY'S Contract Administrator at the following address:
- (LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)
- (ADDRESS)
- H. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$(Amount).
- I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY'S Contract Administrator.

For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

J. All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE VI TERMINATION

- A. LOCAL AGENCY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.
- C. The maximum amount for which the Government shall be liable if this contract is terminated is _____dollars.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE VIII RETENTION OF RECORDS/AUDIT

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and LOCAL AGENCY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, LOCAL AGENCY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and it's certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

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 agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by

LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

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

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.
- D. Any subcontract in excess of \$25,000 entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

ARTICLE XI EQUIPMENT PURCHASE

- A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$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 Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY'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 as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY 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 LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

D. All subcontracts in excess \$25,000 shall contain the above provisions.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See: <http://www.dir.ca.gov>.

ARTICLE XIII CONFLICT OF INTEREST

- A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.
- B. 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.
- C. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.
- D. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

ARTICLE XVI STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color,

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

- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been 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. Any exceptions to this certification must be disclosed to LOCAL AGENCY.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

ARTICLE XVIII 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 LOCAL AGENCY 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 LOCAL AGENCY 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. LOCAL AGENCY has the option to void the contract under the 30-day termination clause pursuant to Article VI, or by mutual agreement to amend the contract to reflect any reduction of funds.

ARTICLE XIX CHANGE IN TERMS

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

ARTICLE XX 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 obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this contract is 12%. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as LOCAL AGENCY deems appropriate.
- D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).
- F. 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.
- G. 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.

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- H. 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.
 - I. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
 - J. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.
 - K. If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within 30 days.

ARTICLE XXI CONTINGENT FEE

CONSULTANT warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY 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 XXII DISPUTES

- A. Any dispute, other than 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 LOCAL AGENCY'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 LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this contract.

ARTICLE XXIII INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, 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 including review and inspection on a daily basis.

ARTICLE XXIV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Section 591 of the Vehicle Code, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.
- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

ARTICLE XXV INSURANCE

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for CONSULTANT with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.
- B. The Certificate of Insurance will provide:
 - 1. That the insurer will not cancel the insured's coverage without 30 days prior written notice to LOCAL AGENCY.
 - 2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this contract are concerned.
 - 3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.
- C. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the contract, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

ARTICLE XXVI OWNERSHIP OF DATA

- A. Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in LOCAL AGENCY; and no further agreement will be necessary to transfer ownership to LOCAL AGENCY. CONSULTANT shall furnish LOCAL AGENCY all necessary copies of data needed to complete the review and approval process.
- B. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.

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- C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by LOCAL AGENCY of the machine-readable information and data provided by CONSULTANT under this contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by LOCAL AGENCY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as may be authorized in writing by CONSULTANT.
 - D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
 - E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.
 - F. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this contract.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this contract in order to resolve the construction claims.
- D. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this contract, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the 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 LOCAL AGENCY's actions on the same, except to LOCAL AGENCY'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 LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.

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- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.
 - F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity other than LOCAL AGENCY.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the 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 section.
- B. No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

ARTICLE XXXII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this contract and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT:

(CONSULTANT)

(NAME) _____, Project Manager

(ADDRESS)

LOCAL AGENCY:

(LOCAL AGENCY)

(NAME) _____, Contract Administrator

(ADDRESS)

ARTICLE XXXIII CONTRACT

The two parties to this contract, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this contract constitutes the entire agreement 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

(Name of CONSULTANT)

(Name of LOCAL AGENCY)

(Name of Signer)

(Name of Signer)

DATE: _____

Attachment A
Request for Proposals

Attachment B
Cost Proposal

Attachment C-
Non lobbying Certification For Federal-Aid Contracts

The prospective participant certifies by signing and submitting this Non Lobbying Certification for Federal-Aid Contracts to the best of his or her knowledge and belief that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

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

The prospective participant also agrees by submitting his/her proposal/bid that he/she shall require that the language of this certification be included in all lower-tier subcontracts which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Date: _____

Signature and Title of Proposer