

CITY OF ELK GROVE



Request for Qualifications

For

**Department of Public Works
Engineering Services Division
On-Call Construction Management Services**

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

Issued: May 7, 2019

**Statement of Qualifications Due by
2:00 p.m. on Wednesday, May 29, 2019**

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I. INSTRUCTION TO PROPOSERS

1. PURPOSE

The City of Elk Grove ("CITY") is seeking Statements of Qualifications (SOQ) from qualified firms for the purposes of selecting a list of firms to provide on-call construction management services for capital improvements and other projects. The types of activities may include, but are not limited to, construction management, construction engineering, office engineering, contract management, inspection services, and reporting for an array of bridge, highway, transit, facility, building and Intelligent Transportation System (ITS) projects. In general, the projects are likely to be funded by CITY, state, federal funds, or some combination thereof. Prospective respondents are advised to read this information over carefully prior to submitting a SOQ.

2. STATEMENT OF QUALIFICATIONS DUE DATE

One signed original, three (3) copies, and one USB Flash Drive copy of the SOQ must be submitted to the Office of the City Clerk by 2:00 PM, on May 29, 2019. SOQ shall be submitted in a sealed envelope clearly marked On-Call Construction Management Services and addressed to:

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

SOQs shall not be accepted by fax or electronically.

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

Any SOQ may be withdrawn or modified by a written request signed by the Consultant and received by the City Clerk prior to the final time and date for the receipt of SOQs.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

The CITY reserves the right to accept any SOQ, to reject any and all SOQs, and to call for new SOQs, or dispense with the RFQ process in accordance with the Elk Grove Municipal Code.

3. CITY POINT OF CONTACT

All inquiries relating to this RFQ shall be submitted to the Project Manager in writing at the address shown below or by E-mail to: sahrari@elkgrovecity.org.

Shoaib Ahrari, Senior Civil Engineer
RE: RFQ for On-Call Construction Management Services
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, California 95758

Such contact shall be for clarification purposes only. The CITY must receive all questions no later than 4:00 PM, on May 22, 2019. Material changes, if any, to the scope of services or RFQ procedures shall only be transmitted by written addendum and posted to the CITY web site. Addendums and answers to submitted questions will be available via the CITY web site under "Notice" for the RFQ announcement.

4. MINIMUM QUALIFICATIONS

In order to be eligible to submit an SOQ for on-call construction management services, firms must demonstrate that the firm, subcontractor(s), and/or key staff members from either the firm submitting an SOQ or a subcontractor(s) who shall be assigned to this project have successfully completed at least three (3) projects in the past five (5) years related to “on-call” construction management services for bridge, highway, transit and/or building projects.

5. BACKGROUND

The services to be provided under this RFQ shall include construction management services for capital improvement projects. The types of activities shall include, but not be limited to, project management, schedule management, budget and invoice analysis management, inspection services, and reporting for an array of bridge, highway, transit, facility, building and Intelligent Transportation System (ITS) projects.

Should Consultants choose to form teams to respond to this RFQ, CITY encourages team members to complement one another in the completion of specific tasks stated in *Appendix A, Preliminary Scope of Work*. In such case, one team member must submit the SOQ and serve as the prime consultant. The other team member(s) will be sub-consultants to the prime consultant. The prime consultant would be signatory to the contract and liable for the work of the subconsultants. CITY anticipates selecting Consultants or Consultant teams from the prequalified list to work cooperatively on specific projects throughout the course of the contract.

6. AREAS OF CONSULTANT EXPERTISE

Specific areas of expertise include, but are not limited to:

- A. Experience in Construction Management, Construction Engineering, Materials Testing/Quality Assurance, Construction Inspection, Project Implementation and Management, Office Engineering, and Administering Construction Contracts, Change Orders, Billings and Payments, and Project Schedules.
- B. Experience in special inspections for buildings.
- C. Experience with Administration of Federal and State Funded Construction Projects in accordance with Caltrans standards.

7. EVALUATION FACTORS

CITY staff will conduct an initial screening of all SOQs received by the above deadline to determine whether the Minimum Qualifications, listed in Section I. Introduction to Proposers (D) of this RFQ have been met. The SOQs of firms who meet Minimum Qualifications will then be reviewed by an evaluation panel pursuant to Section V, Qualifications Evaluation.

8. REQUEST FOR EXCEPTIONS OR MODIFICATIONS AND ADDENDA

Any requests for exceptions to or modifications of RFQ provisions, must be submitted in writing to the CITY Point of Contact and must be received no later than 4:00 p.m., on Wednesday, May 22, 2019, as listed below to guarantee response or consideration.

Any addenda released for this RFQ and responses to questions will be published on CITY’s website at http://www.elkgrovecity.org/city_hall/departments_divisions/purchasing/request_for_proposals_bids.

No e-mail transmissions of any addenda will be provided. The Proposer is responsible to check the website for any addenda to this RFQ and comply with new or revised requirements that may be stated therein.

9. CONSULTANT SELECTION TIMETABLE

4:00 p.m., Wednesday, May 22, 2019	Closing date for receipt of requests for clarification or exceptions to, or modifications of RFQ requirements
2:00 p.m., Wednesday, May 29, 2019	Closing date and time for receipt of SOQs
Week of June 17, 2019	Final Ranking Notification
Wednesday, August 28, 2019 (approximate)	Anticipated approval of contract by City Council
Friday, August 30, 2019 (approximate)	Notice to Proceed

10. AUTHORITY TO COMMIT CITY

It is the intent of CITY staff to recommend award of on-call contracts to the top five (5) qualified Consultants. The authority to award a contract as a result of this RFQ lies solely with the City Council.

II. SCOPE OF WORK, SCHEDULE AND BUDGET

A summary of anticipated work tasks is provided in *Appendix A, Preliminary Scope of Work*, which includes tasks that illustrate the type of on-call services that may be requested of one or more consultants or teams.

On-call contracts awarded as a result of this RFQ shall have a not-to-exceed amount of two million dollars (\$2,000,000.00). All work under the Contract will be assigned pursuant to CITY initiated task orders. Payment for task orders may be deliverables-based on time and materials, as determined by the CITY. Each Task Order will include a specific scope of work based on the areas identified in *Appendix A, Preliminary Scope of Work*. CITY reserves the right in its sole discretion to determine which consultant's qualifications, experience, available resources and ability to perform according to the required schedule best suits each project. Award of an on-call Contract will not necessarily result in award of any task order work. CITY will request cost proposals from one or more on-call Consultants on a project-by-project/task order-by-task order basis. Scope and fee negotiations will take place for each project and task order. Consultant and sub-consultant rates and fees shall comply with all applicable state and federal laws and the Caltrans Local Assistance Procedures Manual (LAPM). Prevailing wage is required for appropriate classifications for all work performed under Contracts resulting from this RFQ.

It is anticipated that the initial term of the Contract will be for three (3) years. Upon mutual consent of CITY and Consultant, the Contract may be extended for two (2) additional one (1) year periods for additional work related to the Preliminary Scope of Work outlined in *Appendix A*.

III. GENERAL CONDITIONS

A. REGISTER WITH THE CALIFORNIA SECRETARY OF STATE

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

B. DISCLOSURE OF SUBMITTED MATERIALS

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

C. WAIVER OF IRREGULARITIES

The CITY retains the right, in its sole discretion, to waive any irregularities in SOQs that do not comply with the strict requirements of this RFQ, and the CITY reserves the right to award a contract to a Consultant submitting any such non-compliant SOQ, all in the CITY's sole discretion.

D. VALIDITY OF PRICING

Consultants are required to provide a fee structure including the hourly rate of the principals to be assigned to the matter, and proposed cost (line item descriptions and pricing), and expense reimbursements levels. No cost increases shall be passed onto the CITY after the SOQ has been submitted. No attempt shall be made to tie any item or items contained in this RFQ with any other business with the CITY; each SOQ must stand on its own.

E. NO GUARANTEE OF USAGE

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

F. DEMONSTRATIONS

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

G. USE OF OTHER GOVERNMENTAL CONTRACTS

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

H. QUALIFICATION/INSPECTION

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

I. OTHER GOVERNMENTAL ENTITIES

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

J. FEDERAL/STATE REQUIREMENTS

CITY, state, federal funds, or some combination thereof, may be used for the work under task orders issued by CITY in which case federal and/or state third-party contracting requirements shall apply. See *Appendix B, Master Services On-Call Contract* for more information on federal and/or state third-party contracting requirements.

All forms and certifications required by third-party contracting requirements, including, but not limited to those identified in the Caltrans Local Assistance Procedures Manual shall be made a part of and submitted as identified in the Contract, upon issuance of task order work involving federal and/or state funds, or upon request by CITY.

K. PAYMENT TERMS

Payment shall be made as set forth in the Contract attached hereto as *Appendix B, Master Services On-Call Contract*. In submitting SOQs under these specifications, Consultants should take into account all discounts, both trade and time, allowed in accordance with the payment terms.

L. PERFORMANCE

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

M. TERM OF CONTRACT

The term of the Contract will be for a specific period of time, commencing upon execution. The CITY anticipates the contract to be for a term of three years with two one-year extensions, at the option of the CITY. The CITY reserves the right to set the term for a period deemed to be in the best interest of the CITY, and terminate the contract as set forth therein.

N. AMENDMENTS

Amendments shall be made as set forth in the contract attached hereto as *Appendix B, Master Services On-Call Contract*. Nothing in this section obligates the CITY to agree to any change order or other amendment, and the CITY may withhold such agreement in its sole discretion.

O. SERVICE AND SUPPORT

Service and Support shall be provided as set forth in the contract attached hereto as *Appendix B, Master Services On-Call Contract* and as directed by CITY.

P. RECORDS

This RFQ and any material submitted by a Consultant Team in response to this RFQ are subject to public inspection under the California Public Records Act (Government Code § 6250 et seq.), unless exempt by law. SOQs will remain confidential until City Council has authorized award. The Consultant shall maintain complete and accurate records with respect to labor costs, material expenses, and other such information required by CITY that relates to the performance of services under the contract. The Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of the services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible and in a form acceptable to the CITY, which the CITY may specify and change from time to time. The Consultant shall provide free access to the representatives of CITY or its designees, at reasonable times, to such books and records, shall give CITY the right to examine and audit said books and records, shall permit CITY to make transcripts there from as necessary, and shall allow inspection of all work, data, documents, proceedings, and activities related to the contract. Such records, together with supporting documents, shall be maintained for CITY's inspection for a period of at least three (3) years after receipt of final payment.

Q. PREVAILING WAGE RATES, APPRENTICESHIPS, AND PAYROLL RECORDS

The selected Consultant shall comply with applicable sections of the California Labor Code (e.g., Sections 1720 et seq. and Title 8 of the California Code of Regulations Sections 16000 et seq.) governing the payment of prevailing wages, as determined by the Director of the California Department of Industrial Relations, in regards to all work performed under the Contract resulting from this RFQ. In particular, Consultant's attention is drawn to Labor Code Sections 1771 (payment of prevailing wage rate), 1775 (penalty for non-payment), 1776 (payroll records), and 1777.5 (use of apprentices).

IV. FORM OF STATEMENT OF QUALIFICATIONS

The following guidelines are provided for standardizing the preparation and submission of SOQs. The intent is to assist respondents in the preparation of their submissions and to assist the CITY by simplifying the review process providing standards for comparison of submissions. Firms wishing to provide a SOQ for on-call construction management services should address all items below.

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

A maximum of twenty (20) single sided pages or ten (10) double sided pages shall be submitted (exclusive of the transmittal letter, title page, table of contents, forms and certificates, appendices, and page/section dividers). Font size shall be eleven (11) or larger and type shall be Times New Roman, Arial, Calibri, or Cambria. Margins shall be a minimum of one half inch (1/2").

SOQs shall contain the following information in the order listed:

A. TITLE PAGE

Title page showing the RFQ subject, the name of the respondent's firm, address, telephone number, fax, name of contact person, email, and the date.

B. TRANSMITTAL LETTER

A transmittal letter signed by an official authorized to solicit business and enter into contracts for the firm. The transmittal letter should refer to this RFQ by title and date and shall include the name, email address and telephone number of a contact person and a statement that the SOQ is a firm offer to enter into a contract with CITY according to the terms of this RFQ and shall remain valid for a period of not less than one hundred twenty (120) days from the date of submittal. The transmittal shall be no more than 2 pages.

C. TABLE OF CONTENTS

SOQ must include a table of contents that includes a clear identification of the material by section and page number.

D. QUALIFICATION AND EXPERIENCE

2. Qualifications - A brief company profile and summary of the firm's and its subconsultants' qualifications in relation to the project and construction management services outlined in *Appendix A, Preliminary Scope of Work*. The company profile should include: a brief history of the firm, office locations, size of the firm, services offered, areas of expertise that are relevant to the aforementioned scope, staffing expertise and availability to work on projects that may be assigned should the firm be selected. The summary of the firm's qualifications should address each of the minimum qualifications described above in Section I. Introduction to Proposers (D), Minimum Qualifications.
3. Project Management - Descriptions of the firm or Project Manager's approach to managing projects and personnel, maintaining quality control, highlighting the project understanding, and providing the overall technical approach to providing construction management services, and delivering high quality products. Three (3) references who can attest to key staff's experience in performing work substantially similar to the services covered by this RFQ must be provided. References should include contact information and the name of the project or projects completed by the Consultant for that client. Letters of endorsements may be included as an appendix.
4. Similar Projects - Descriptions of a minimum of three (3) relevant projects, in which the firm acted as Construction Manager, completed within the past five (5) years by the firm and description of the key staff involved in the projects. The description should include the following:
 5. Project name;
 6. Project category, one paragraph description of the type of project, purpose of the project and the firm's scope of work;
 7. Size of the project in terms of budget and scope;
 8. Duration of project (e.g., 6 months) and year of completion;
 9. Client agency and other participating agencies;

10. Consultant's fee for the project; and
11. Who, of the staff proposed for this Contract, worked on the project and their role.
12. Organizational Chart - An organizational chart and summary qualifications of all key staff, including key staff of any subconsultants that would be expected to work on the project(s) that may be assigned, their availability, and the location of the office from which they will perform the work under this contract. Key staff members who are proposed to contribute the majority of work hours should be highlighted on the organizational chart. Staff qualifications should include: a one-paragraph description of relevant experience, proposed role, length of work experience and areas of expertise, for each staff member. Resumes may be included as an appendix and shall not count toward the allowed page limit.
13. Office Locations - Include the offices where work for the Project will be conducted by the Consultant and subconsultant(s).

E. CONFLICT OF INTEREST STATEMENT

Any activities or relationships of the Consultant that might create a conflict of interest for the Consultant or the CITY, and, if such activities or relationships exist, a description of the facts, legal implications, and possible effects sufficient to permit the CITY to appreciate the significance of the conflict and to grant any conflict waiver, if appropriate and necessary.

F. SECRETARY OF STATE

Consultant shall acknowledge their understanding of needing to be registered with the California Secretary of State as noted in the RFQ language above.

G. DBE GOAL

The CITY has established a DBE goal of 13% for this Contract. Consultant must complete and include in the SOQ LAMP Exhibit 10-O1 "Consultant Proposal DBE Commitment".

H. METHOD OF PAYMENT AND FEE SCHEDULE

The method of payment for this Contract shall be Specific Rate of Compensation. The cost proposal, LAMP Exhibit 10-H2 from Consultant and each subconsultant, along with DBE form, LAMP Exhibit 10-O2, must be included in a Sealed Fee Envelope separately. The fee proposal must identify all key employees and/or classifications to be billed. New key employees and/or classifications must be approved by the CITY before they incur work on the contract or the costs can be questioned or disallowed. Fee schedule should be valid through June 2020 and shall be used in the Contract. The fee schedule shall also indicate the annual escalator to be applied during the term of the Contract.

I. MASTER SERVICES ON-CALL CONTRACT

Attached to the RFQ (Appendix B) is a copy of the CITY's standard Master Services On-Call Contract (Contract). The CITY's standard Contract may be modified, in the CITY's sole discretion, to address the specific provisions of this RFQ and Consultants should note that any specifications or other requirements specific to this RFQ shall be included in the Contract and Contract's exhibits following an award of the Contract. Please review the Contract carefully and note in your SOQ any exceptions or alterations to the Contract. Alterations or changes to the Contract that are not in the Consultant's

response shall not be considered after the selection of the Consultant. This includes alterations, exceptions, or changes to the insurance and indemnity provisions. By requiring these requests up front, the CITY can compare all respondents on an equal basis. However, the CITY reserves the right, in its sole discretion, to accept or reject any and all proposed changes to the CITY's standard Contract. For reference, the insurance amounts that appear in the attached Contract are summarized below.

TYPE	SINGLE LIMIT / OCCURRENCE	AGGREGATE	ENDORSEMENTS***
General Liability (1D)	\$1,000,000	\$2,000,000	Additional Insured Waiver of Subrogation Primary Non-Contributory
Auto Liability (2C)	\$1,000,000 Scheduled, Hired and Non-Owned		Additional Insured
Work Comp (3A) Employer's Liability	Statutory \$1,000,000 each		Waiver of Subrogation
Professional Liability (4C)	\$5,000,000	\$5,000,000	(3 year tail)

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

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

J. FORMS AND CERTIFICATES

The following forms, certificates, and/or documents are to be completed and submitted with SOQ:

- A. Certification of Financial Management System and Contract Costs (LAPM Exhibit 10-K)
- B. Consultant Proposal DBE Commitment (LAPM Exhibit 10-O1)

LAPM forms may be accessed at the following location:

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

V. QUALIFICATIONS EVALUATION

- REVIEW FOR GENERAL RESPONSIVENESS AND SATISFACTION OF MINIMUM QUALIFICATIONS
-

The CITY will conduct an initial review of the SOQs to determine if the Minimum Qualifications listed in Section I.D have been met. Those not meeting the minimum qualifications will be considered non-responsive and will not be further evaluated.

An SOQ that fails to include one or more items requested in Section IV. Form of Statement of Qualifications, may be considered non-responsive at the discretion of the Project Manager and a panel of staff representatives from the CITY.

- EVALUATION

SOQs deemed responsive will then be evaluated by a panel of staff representatives from CITY and potentially other partner agencies. All aspects of the SOQ evaluations, including any related discussions, documentation, correspondence and meeting recordings, will be kept confidential during the evaluation and negotiation process. SOQs will be analyzed for conformance with the instructions and requirements of this RFQ. SOQs that do not comply with these instructions and do not include the required information may be rejected at the sole discretion of the CITY.

The CITY will utilize an evaluation process based on the highest quality of service proposed that best matches the CITY's requirements, a "Best Value" methodology. Consistent with this "Best Value" process, the SOQs will be evaluated as described below. Each SOQ will be worth a total of 100 points and will be evaluated according to the criteria listed below. If the CITY receives more than five (5) SOQs, the top five (5) scoring SOQs will be considered as most competitive and will continue with the selection process. The other SOQs will be eliminated from further consideration.

The evaluation criteria and related points:

- **(30 Points)** The firm's and any subcontractors' (collectively referred to as the Team's) and key staff's knowledge of, expertise in and experience in providing project management, construction management and project services for small and large scale highway, transit, bridge and/or building construction projects, and familiarity of key staff with applicable Caltrans specifications, standards, regulations, policies and procedures, with building construction requirements, and with permitting and regulatory agencies involved in major highway and bridge construction projects;
- **(15 Points)** The Team's and key staff's knowledge of, expertise in and experience in providing project management, construction management and project services for federal and state funded projects;
- **(25 Points)** The Team's ability to have qualified key staff available on an as-needed basis;
- **(20 Points)** The Team's and Project Manager's method for project management and quality control/quality assurance, project understanding, and technical approach to successfully manage and direct construction management services for small and major construction projects, including bridge construction projects;
- **(10 Points)** Demonstrated availability within the Team's personnel of specialized expertise to cover all of the construction management and associated services.

Following the evaluation, the evaluation panel may elect to recommend award to qualified Consultants with or without interviews or to develop "short lists" of firms to be considered for selection. In-person interviews may be held with short-listed firms, and references may be contacted for any or all of the short-listed firms. References, including past performance on other projects performed by the firm for the selection panel members, if applicable, may be considered in the panel's evaluation.

During the evaluation, any potential conflicts of interest will be considered. CITY may request additional information from any firm that appears to have an organizational conflict of interest, including its plan to mitigate any such conflicts. CITY will not award a contract to a firm with an actual conflict of interest, or with an apparent conflict of interest that cannot be adequately mitigated, in CITY's sole opinion.

CITY reserves the right to accept or reject any and all SOQs submitted, to waive minor irregularities in SOQs, and to request additional information from the proposers. CITY reserves the right not to convene oral interviews and to make awards on the basis of SOQs alone. Awards if made will be made to the firms whose SOQs are the most advantageous to CITY, based on the evaluation criteria listed above.

APPENDIX A: PRELIMINARY SCOPE OF WORK

All services performed under this Contract shall be in conformance with all applicable Local, State, and/or Federal standards, regulations, policies and procedures. The Consultant shall continuously make available, throughout the life of the Contract, the qualified personnel proposed to perform the services required. All such services or work assignments shall be authorized by individual task orders that may be issued under this Contract. The on-call construction management services may include but are not limited to the following tasks:

1 Construction Management Services

- 1.01 Develop final construction management staffing plan and project management plans for the construction and completion of capital improvement and other projects in accordance with the schedules of assigned projects.
- 1.02 Review all design plans, project implementation and construction contracts, project schedules and applicable project management guidelines.
- 1.03 Perform and assist in performing the duties of a Construction Inspector including civil, electrical, landscape, structural, building, and utility construction engineering. This work includes, but is not limited to, completing daily diaries, performing quantity calculations, checking grade and alignment, materials sampling and control, coordinating scheduling, reviewing certified payroll, conducting labor compliance interviews, and any other task, i.e. LEED commissioning, necessary to document and ensure compliance with project plans and specifications. Also, work shall include measuring and verifying progress of work for payment purposes.
- 1.04 Perform office engineering including, but not limited to: developing and processing Contract Change Orders, reviewing shop drawings, calculating pay quantities, and preparing engineering and As-built drawings, preparing calculations, records, reports and correspondence related to project activities, deploying project controls activities, including identifying actual and potential problems associated with the construction project and recommend solutions.
- 1.05 Provide Contract administration and support services, including preparing correspondence, processing progress pay estimates and extra work billings, reviewing billings, and developing and maintaining complete and accurate project files, including asset management systems and electronic records management in accordance to Caltrans file and record procedures.
- 1.06 Provide construction engineering support to analyze project schedules for contract compliance purposes. In addition, the Consultant shall provide analysis of time impacts to the project schedule and provide recommendations.

- 1.07 Review and recommend and provide contract dispute expertise for project protests, Notice of Potential Claims, and Contract Claims. This work includes, but is not limited to, claims resolution principles, claims avoidance techniques, timeline awareness, risk analysis, and claim report writing.
- 1.08 Provide materials sampling and testing for construction projects. Perform and assist in performing materials and/or product manufacturing inspection in the field or at the manufacturer's plant location. Perform and assist in performing special inspections for building construction. This work includes, but is not limited to, verifying the materials and/or products conform to the plans, specifications, material tests, and quality control.
- 1.09 Conduct constructability reviews on draft construction plans and specifications and prepare an evaluation report of findings per applicable standards. The reviews shall identify contract plans and specification errors, omissions, and inconsistencies and assure overall Plan, Specification, & Estimate (PS&E) constructability, operability, and maintainability.
- 1.10 Provide support services for geotechnical and related work, including pavement condition assessment, for specific locations as requested. This work includes, but is not limited to, performing field investigations, evaluating and making recommendations for conditions encountered during construction.
- 1.11 Conduct storm water monitoring to comply with Court Orders, fulfilling all permit obligations, and other activities as deemed appropriate. Prepare and/or ensure preparation of reports for CITY, Caltrans, Regional Water Quality Control Board(s) (RWQCB), and other agencies as appropriate.
- 1.12 Provide surveying and construction staking, for specific locations as requested. The Consultant shall perform surveying services using the latest technological equipment, including Global Positioning System (GPS) equipment. The information shall be submitted in digital formats as requested.
- 1.13 Review Contractor provided traffic control plans for work within the public right-of-way.
- 1.14 Provide proactive on-site coordination with utility owners such as SMUD, PG&E, AT&T, and Comcast and construction contractors. Coordinate installation and testing services with the utility owners and contractors, as needed.
- 1.15 Provide City with electronic copies of all plans, designs, reports, permits and agreements, and contracts prepared under this Scope of Work.

2 Other Related Project Management Services

- 2.01 Provide public information services including, but not limited to, preparing presentation and report materials, conducting public meetings, preparing materials and providing contacts for the media, preparing public notices and materials (e.g., brochures, etc.), preparing video simulations, maps, power point presentations, and graphics.

2.02 Provide technical and report writing services, including, but not limited to, conducting research, completing studies in specific areas, and developing work plans.

3 Personnel

The types of personnel that the Consultant shall be required to have available to provide the services requested include, but are not limited to:

- a. **Project Managers** — The Consultant’s Project Manager shall coordinate all matters with the CITY Project Manager, and meet, as needed, to discuss progress on the project(s). In addition to other specified responsibilities, the Project Manager shall be licensed as a Registered Civil Engineer in the State of California, with Public Agency construction and contract administration experience in the State of California. The Project Manager is responsible for all matters related to the Consultant personnel and operations.
- b. **Design Engineers** — The Consultant shall provide design engineering staff with experience in bridge, highway and facility design.
- c. **Resident Engineers (RE)** — The RE shall be licensed as a Registered Civil Engineer in the State of California and shall perform all functions and responsibilities of a Construction Resident Engineer in administering the contracts they have been assigned.
- d. **Structures Representatives (SR)** — The SR shall be licensed as a Registered Civil Engineer in the State of California and shall perform all functions and responsibilities of a Construction Structures Representative in administering the contracts they have been assigned. The SR may also serve as the RE on the same project.
- e. **Assistant Resident Engineers (ARE)** — The ARE shall demonstrate construction contract administration experience and be capable of assisting the Resident Engineer in all aspects of required field and office construction engineering work.
- f. **Field Inspectors** — The Consultant shall provide field construction inspectors, which have construction engineering experience on highway and major public works projects, structural inspectors, which have experience in structural construction inspection, building inspectors, which have demonstrated experience inspecting and managing building construction, and utility inspectors, which have demonstrated experience inspecting above or below ground utilities.
- g. **Land Surveyors (LS)** — The Consultant shall provide LS capable of performing surveying and construction staking for specific locations as requested. LS shall be capable of performing surveying services using the latest technological equipment, including Global Positioning System (GPS) equipment.

- h. Field Office Engineers/Draftspersons — Construction Office Engineers and Draftspersons shall demonstrate construction administration and engineering related experience and be capable of assisting the Resident Engineer in all aspects of required office construction engineering duties.
- i. Contract Claims Engineers — Contract Claims Engineers shall demonstrate construction contracts experience.
- j. Construction Materials Testers — Materials Testers shall possess proper certification, as required and shall be capable of assisting the Resident Engineer in all aspects of material testing work.
- k. Production Staffing – Production Staff includes, but is not limited to, graphic designers and report writers.

4 Equipment

The types of equipment that CITY shall require the Consultant to have available to provide the services requested include, but are not limited to:

4.01 Office Equipment and Supplies (Consultant’s Office) — The Consultant shall have adequate office equipment and supplies to complete the required work. Such equipment and supplies shall include, but are not be limited to, computers, printers, plotters, and calculators.

4.02 Field Office, Equipment, and Supplies — The Consultant shall provide adequate field office, equipment and supplies as needed to complete the required field engineering work. The field office, equipment and supplies for field construction personnel could include, but is not limited to, personal protective equipment, field office facilities, vehicles suitable for the work to be performed, communications, computers, field office equipment, and supplies, access to all testing and laboratory facilities and equipment. In some circumstances the field office may be furnished by CITY.

List of Possible Projects for On-Call CM Services¹				
Project #	Project Name	Description	Construction Fiscal Year²	Construction Cost²
WAC024	Elk Grove Florin Rd. at W. Camden Dr. East Side Sidewalk Infill	The project will construct approximately 147 feet of concrete sidewalk, curb and gutter, minor pavement widening and utility relocations.	19/20	\$ 207,000.00
WAC026	Elk Grove-Florin Rd. and Elk Grove Park Sidewalk Infill	The Sidewalk Infill Project will eliminate sidewalk gaps in the sidewalk network along the east side of Elk Grove-Florin Road, as well as improve ADA access, bicycle and pedestrian crossings (Lismore Drive, Valley Oak Drive). The project includes an educational component provided by the EGUSD for adjacent schools after construction is concluded.	19/20	\$ 173,000.00
WAM009	Laguna Creek Trail and West Stockton Blvd. Multi Modal Improvements	The project would resurface approximately 2,800 feet of Class I multi-use trail parallel and south of West Stockton Blvd. and would replace 34 non-compliant ADA curb ramps, install detectable warning surfaces at commercial driveways along Lewis Stein Road. The Project may include a pedestrian activated beacon system at Michener Way and West Stockton Boulevard near Lewis Stein Park (aka Pinerton Park) should additional funding become available.	20/21	\$ 747,000.00
WAM010	Pedestrian Crossing Upgrades at 4 Locations	Install curb ramps, crosswalks, advance yield signs, Rapid Rectangular Flashing Beacons (RRFBs) and, associated advanced warning signs.	21/22	\$ 431,000.00
WCE022	Old Town Plaza Phase 2 and 3	Phase 2 is to construct entrance plaza, trails, bike parking, seat wall and lawn/landscaping area adjacent to Elk Grove Blvd. Phase 3 is to construct pavilion structure, additional bathrooms, storage, lawn area. Phase 3 is unfunded at this time.	19/20	\$ 720,800.00

WCE028	Civic Center Nature Area	The project will complete design documents and construct a portion of the remaining 30 acre undeveloped site at the Civic Center South property. The Schematic Design will be completed as part of WCCA01 Civic Center Master Planning Project and includes identification of phases of work with associated budgets. This project will complete the design documents and construct the Civic Center South property as approved by Council on 8/22/2018 for WCCA03 Landscaping and Pedestrian Facilities Study.	19/20	\$ 6,500,000.00
WDR018	Laguna Creek & Whitehouse Creek Multi-Functional Corridor Project	The project will consist of three phases of construction of a 2.2 mile reach along Laguna and Whitehouse Creeks. Phase I of the project will consist of the construction of a maintenance access road (paved with no striping) for maintenance access ability to Laguna and Whitehouse Creeks. Phase II of the project will consist of transitioning the maintenance access road to a Class 1 multi-trail. Phase III will consist of preservation, rehabilitation and enhancing of the creeks and adjacent wetlands.	20/21	\$ 474,600.00
WDR022	Bond Rd Storm Drain Improvements	The project will upsize approximately 3,750 feet of storm drain pipe on Bond Road from Whittemore Drive west to the outfall at Laguna Creek. The size of the new pipe will range from 36-inches to 66-inches. The improvements will help contain the 10-year storm event runoff and accommodate the construction of the Silverado Springs development. The improvements also include a rubberized asphalt concrete overlay as part of the City of Elk Grove's Pavement Management Program.	20/21	\$ 2,700,000.00
WFC016	I-5/Elk Grove Blvd Park and Ride Lot	The project will construct a park and ride lot.	20/21	\$ 210,000.00
WFC024	8400 Laguna Palms Way HVAC Replacement	The project will remove and replace the HVAC units	20/21	\$ 610,000.00
WFC025	8400 Laguna Palms - Recarpet Building	The project will replace carpeting in building except Dispatch Area and Council Chambers.	20/21	\$ 400,000.00
WFC028	8380 Laguna Palms, Suite 200, Replace HVAC Units	The project will remove and replace the HVAC units.	21/22	\$ 183,000.00

WPR011	Annual Pavement Slurry Seal and Resurfacing years 2-5 - 20/21	Annual Citywide pavement maintenance work consisting mainly of slurry seals and overlays.	20/21	\$ 3,760,000.00
WPR011	Annual Pavement Slurry Seal and Resurfacing years 2-5 - 21/22	Annual Citywide pavement maintenance work consisting mainly of slurry seals and overlays.	21/22	\$ 3,760,000.00
WPR014	Arterial Roads Rehabilitation and Bicycle Lane Improvements	The project will rehabilitate or resurface pavement on portions of Waterman Road, Elk Grove Florin Road, and Elk Grove Blvd to provide class II bike lanes. Also included are a mid-block pedestrian crossing along Elk Grove-Florin Road, a new sidewalk along one section of the west side of Waterman Road and a two-way left turn lane on Elk Grove Blvd.	20/21	\$ 2,568,000.00
WPR020	2020 Pavement Slurry Seal and Resurfacing	Annual Citywide pavement maintenance work consisting mainly of slurry seals and overlays.	19/20	\$ 3,854,000.00
WTL018	Laguna Creek Trail - Camden Lake to East Stockton Blvd/State Route 99	The project will consist of transitioning a paved maintenance access road to a Class 1 Bikeway (multi-use trail) with appropriate trail amenities	20/21	\$ 125,000.00
WTL019	Laguna Creek Trail and Bruceville Road Sidewalk Improvements	The project will construct approximately 8,250 feet of new 10' wide maintenance road/Class I Bikeway along Laguna Creek, 950' 8'-wide trail along Bruceville Rd (from Big Horn to north) and 1160' 6'-wide pedestrian path/sidewalk along Bruceville Rd. (from Sheldon Rd to south and between Di Lusso Dr. and Laguna Blvd.).	20/21	\$ 659,500.00
WTL034	Annual Trail Pavement Rehabilitation - 19/20	The project includes annual Citywide trails pavement maintenance work consisting mainly of slurry seals and overlays.	19/20	\$ 110,000.00
WTL034	Annual Trail Pavement Rehabilitation - 20/21	The project includes annual Citywide trails pavement maintenance work consisting mainly of slurry seals and overlays.	20/21	\$ 110,000.00
WTL034	Annual Trail Pavement Rehabilitation - 21/22	The project includes annual Citywide trails pavement maintenance work consisting mainly of slurry seals and overlays.	21/22	\$ 110,000.00
WTL038	Whitehouse Creek Trail Connection	The project will consist of transitioning a paved maintenance access road to a Class 1 Bikeway (multi-use trail) with appropriate trail amenities.	20/21	\$ 80,000.00

WTR010	Grant Line Rd Widening - Phase III	This project will reconstruct Grant Line Road in its ultimate location with two lanes and should sufficient budget be available widen to four lanes. In addition the project will reconstruct the Grant Line Road and Bradshaw Road intersection.	19/20	\$ 6,300,000.00
WTR012	Old Town Area Streetscape Phase 2	The Project will design street frontage improvements along Elk Grove Boulevard which may include expanded, decorative sidewalks, landscape strips, median islands, crosswalks, bike lanes/routes, signs, striping, bus shelters and potential utility undergrounding. The Project is funded for environmental, design and ROW phases only. Construction will require an additional grant award.	20/21	\$ 4,300,000.00
WTR017	Kammerer Rd Reconstruction Big Horn Blvd to Lotz Parkway	Reconstruct the existing Kammerer Road in its ultimate location with a median and one traveled lane and shoulder in each direction. Transition to existing undivided Kammerer west of Big Horn. Conform to the east by extending the divided section to 1000 feet east of Lent Ranch Parkway. Three intersections to be included are at Lotz (potentially signalized), Collector 1 and Big Horn (potentially signalized).	19/20	\$ 8,700,000.00
WTR018	Kammerer Rd Reconstruction Bruceville to Big Horn Blvd	This project captures the revenue from a proposed federal TIFIA loan and the loan repayment from Roadway Fee funds for the construction of Kammerer Rd. The funding assumes a 25 year loan at about 4%.	21/22	\$ 6,000,000.00
WTR031	Elk Grove Blvd/I-5 Southbound Off-Ramp	The project will modify the southbound off-ramp from I-5 to Elk Grove Boulevard to a two-lane exit.	20/21	\$ 137,700.00
WTR047	Signalization of Whitelock Parkway and Cape Verde Drive Intersection	The project will construct a signal at the intersection of Whitelock Parkway and Cape Verde Drive.	19/20	\$ 450,000.00
WTR049	Railroad Street Improvements	The project will consist of the following: (1) street improvements on Railroad Avenue from Elk Grove Boulevard to its southern terminus; (2) Grove Street from Railroad Avenue to the eastern edge of the Old Town Plaza; (3) curb, gutter, and sidewalk along Elk Grove Boulevard, Grove Street, and Railroad Avenue; (4) two parking lots south of the Old Town Plaza; and (5) underground utilities.	19/20	\$ 4,009,000.00

WTR055	Annual Speed Control - 19/20	This Project will install multiple speed humps and/ or Radar driver feedback signs throughout the city as part of the speed control program.	19/20	\$ 60,000.00
WTR055	Annual Speed Control - 20/21	This Project will install multiple speed humps and/ or Radar driver feedback signs throughout the city as part of the speed control program.	20/21	\$ 75,000.00
WTR055	Annual Speed Control - 21/22	This Project will install multiple speed humps and/ or Radar driver feedback signs throughout the city as part of the speed control program.	21/22	\$ 225,000.00
WTR057	Intelligent Transportation System (ITS) Phase 5A	Connect existing city fiber/copper signal interconnect cable at up to eight intersections, and install new fiber optic communications lines and communication hubs at two new intersections.	20/21	\$ 893,000.00
WTR058	Laguna Blvd Right Turn Lane to W. Stockton Blvd	Convert the existing right turn lane into a westbound vehicle lane, add a new westbound Class II bike lane, a new right turn lane, and video detection.	21/22	\$ 1,870,000.00
WTR059	Guardrail Replacement at 4 locations	Guardrail Replacement at four locations-1) Bruceville Rd at Laguna Creek Bridge- 2) Sheldon Rd at Laguna Creek Bridge -3) Waterman Rd at Laguna Creek Bridge- 4) Grant Line Rd at Deer Creek Tributary Bridge	21/22	\$ 397,000.00

¹ List of potential projects subject to change. City anticipates that additional, yet unidentified, projects and or funding may potentially increase the number of projects for on-call services.

² Estimated beginning year of construction and construction cost subject to change.

APPENDIX B: MASTER SERVICES ON-
CALL CONTRACT

City of Elk Grove

Consultant Name

Re: On-call Construction Management Services



CITY OF ELK GROVE



MASTER SERVICES CONTRACT FOR
CONSULTANT NAME
ON-CALL CONSTRUCTION MANAGEMENT SERVICES



MASTER SERVICES CONTRACT

THIS CONTRACT "Contract") is made on _____, 20__, by and between the City of Elk Grove, a municipal corporation (the "City") and **Consultant Name** (the "Consultant"), collectively referred to as the "Parties."

WITNESSETH

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

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

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

1. SCOPE OF SERVICES

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

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

2. TERM OF CONTRACT

This Contract shall be effective as of the date executed by the Parties and approved as to form by the City Attorney and shall terminate on _____, unless earlier terminated pursuant to Section 11 of this Contract. Notwithstanding any other provision of this Contract, the City Manager shall be authorized to extend the termination date of this Contract (including, as necessary, modification of the Scope of Work and/or Schedule of Performance as to time of performance) by a writing signed by the City Manager and the Consultant prior to the initial termination or any extended termination date.



3. SCHEDULE FOR PERFORMANCE

Performance shall be in accordance with the terms of this Contract and each individual Task Order as issued.

4. COMPENSATION

A. The total amount paid to Consultant under this Contract shall not exceed two million dollars (\$2,000,000.00). Consultant will be reimbursed for hours worked at the hourly billing rates specified in Exhibit "C" attached hereto and incorporated herein by this reference. The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. Said amount shall be paid upon submittal of a monthly invoice showing completion of the tasks that month, including the services rendered, the costs incurred for materials, the person(s) rendering performed services, the amount of time spent by such person(s) and the applicable hourly rate. These rates are only adjustable in accordance with Exhibit "C".

B. In addition, Consultant will be reimbursed for incurred (actual) direct costs other than salary costs that are identified in the executed Task Order. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the Task Order.

C. Specific projects will be assigned to Consultant through issuance of Task Orders.

D. After a project to be performed under this Contract is identified by the City, the City will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, and project schedule. The draft Task Order will be delivered to Consultant for review. Consultant shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both the City and Consultant.

E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, as set forth in the Contract, at the discretion of the City's Public Works Director, or his/her authorized representative.

F. When milestone cost estimates are included in the Task Order, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Public Works Director or his/her authorized representative before exceeding such estimate.

G. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.



H. Consultant shall not commence performance of work or services until notification to proceed has been issued by the City's Public Works Director or his/her authorized representative. No payment will be made prior to approval or for any work performed prior to approval of this Contract.

I. A Task Order is of no force or effect until executed by an authorized representative of City. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by City.

J. Consultant will not be allowed to add a markup on all sub-consultant and vendor invoices.

K. Consultant will be reimbursed, as promptly as fiscal procedures will permit upon receipt by City's Public Works Director or his/her authorized representative of itemized invoices. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the Task Order and shall reference this Contract number, project title and Task Order number. Credits due City that include any equipment purchased under the provisions of Section 15 (Property of City) of this Contract, must be reimbursed by Consultant prior to the expiration or termination of this Contract. Invoices shall be mailed to City's Public Works Director or his/her authorized representative at the following address:

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

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

M. The total amount payable by City for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by Task Order amendment.

N. If the Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment shall be made until the deliverable has been satisfactorily completed.



O. Task Orders may not be used to amend this Agreement and may not exceed the Scope of Work under this Agreement.

P. The total amount payable by City for all Task Orders resulting from this Contract shall not exceed two million dollars (\$2,000,000.00). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Contract through Task Orders.

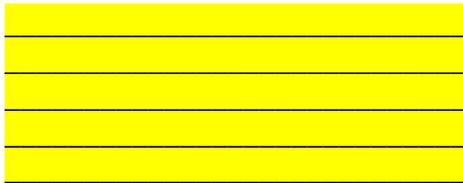
Q. All subcontracts in excess of \$25,000 shall contain the above provisions.

5. NOTICES

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

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

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



6. PROFESSIONAL SERVICES

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

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



7. FEDERAL/STATE REQUIREMENTS

A. Cost Principles and Administrative Requirements.

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

B. Conflict of Interest

1. Consultant shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this Contract, or any ensuing City construction project. Consultant shall provide City with a list of current clients who may have a financial interest in the outcome of this Contract, and any ensuing City construction project, which will follow.
2. Consultant hereby certifies that Consultant does not now have, nor shall it acquire, any financial or business interest that would conflict with the performance of services under this Contract.
3. Any subcontract in excess of \$25,000 entered into by Consultant as a result of this Contract, shall include all of the requirements of this section.
4. Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant providing services on this Contract prepared the Plans, Specifications, and Estimate for any potential construction project included within this Contract. An affiliated firm is one, which is subject to the control of the same persons through joint- ownership, or otherwise.



5. Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract to be managed by this Contract. Additionally, Consultant certifies that no person working under this Contract is also employed by the construction contractor for any potential project included within this Contract.
6. Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this Contract shall have provided services on the design of any potential project included within this Contract.

C. 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 City employee. For breach or violation of this warranty, City 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.

D. Prohibition Against Expending Local Agency, State, or Federal Funds for Lobbying

1. Consultant certifies to the best of Consultant's knowledge and belief that:
 - a. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
 - b. 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; Consultant shall complete and submit Exhibit



F-2, "Disclosure of Lobbying Activities," in accordance with its instructions.

2. 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 Contract 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.
3. Consultant agrees by signing this document that Consultant 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.

E. Disadvantaged Business Enterprise

The City has established a DBE goal for this contract of 13%.

1. Disadvantaged Business Enterprise (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. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (LAPM Exhibit 10-O1), or in the Consultant Contract DBE Commitment (LAPM Exhibit 10-O2). 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 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 contracts.



Failure of 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 City deems appropriate.

- d. Any subcontract entered into as a result of this Contract, regardless of amount, shall contain all of the provisions of Section 7.E Disadvantaged Business Enterprise (DBE) Participation.

2. Performance of DBE Consultant and other DBE Subconsultants and Suppliers.

- a. A DBE performs a commercially useful function 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 commercially useful function, 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 commercially useful function, 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.
- b. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- c. If a DBE does not perform or exercise responsibility for at least 30% of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the 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 commercially useful function.
- d. A DBE firm may be terminated only with prior written approval from the City's Public Works Director or his/her authorized representative and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting the City's Public Works Director or his/her authorized



representative consent for the termination, Consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

3. Prompt Payment of Funds Withheld to Subcontractors.

- a. No retainage will be held by City from progress payments due Consultant, except as described in paragraph 4, Compensation. Any retainage held by Consultant from progress payments due its subconsultants shall be promptly paid in full to its subconsultants within 21 days after such subconsultant's work is satisfactorily completed. Federal law (49 CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject Consultant or its subconsultant to the penalties, sanctions and other remedies specified in section 7108.5 of the California Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to Consultant or its subconsultant in the event of a dispute involving late payment or nonpayment by Consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE subconsultants.
- b. Any subcontract entered into by Consultant as a result of this Contract, regardless of amount, shall contain all of the provisions of this section.

4. DBE Records.

- a. Consultant shall maintain records of materials purchased and/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 subcontractors shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- b. Upon completion of this 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 Subcontractors," CEM-2402F (LAPM Exhibit 17-F), certified correct



by Consultant or its authorized representative, and shall be furnished to the City's Public Works Director or his/her authorized representative with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 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 Enterprise (DBE), First-Tier Subcontractors" is submitted to the City's Public Works Director or his/her authorized representative.

5. DBE Certification and Decertification Status

If Consultant, or a DBE subcontractor of Consultant, is decertified during the life of this Contract, Consultant shall notify the City's Public Works Director or his/her authorized representative in writing with the date of decertification. If Consultant or a subcontractor of Consultant becomes a certified DBE during the life of the Contract, Consultant shall notify the City's Public Works Director or his/her authorized representative in writing with the date of certification. Any changes should be reported to the City's Public Works Director or his/her authorized representative within 30 days.

F. Discrimination

1. 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.
2. 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.
3. 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 (2 CCR §11000 et seq.), the



provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

4. 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.
5. The Consultant, with regard to the work performed by it during the Agreement, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

G. Prevailing Wages

1. 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 applicable to the work. In the event that the federal wage rates differ from the state prevailing wage, the higher of the two must be paid, if applicable to the project.
2. 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 section G.
3. 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>.

H. Debarment and Suspension Certification

1. 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 the City.
2. Exceptions will not necessarily result in denial of recommendation for award, but shall be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
3. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

I. Audit Review Procedures

1. 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 the City's Finance Director or his/her authorized representative.
2. Not later than 30 days after issuance of the final audit report, Consultant may request a review by the City's Finance Director of unresolved audit issues. The request for review will be submitted in writing.
3. Neither the pendency of a dispute nor its consideration by the City will excuse Consultant from full and timely performance, in accordance with the terms of this Contract.



4. Consultant and subconsultant contracts, including fee proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Contract, fee proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The Contract, fee proposal, and ICR shall be adjusted by Consultant and approved by the City's Public Works Director or his/her authorized representative to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Contract by this reference if directed by the City's Public Works Director or his/her authorized representative at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of Contract terms and cause for termination of the Contract and disallowance of prior reimbursed costs.

J. Equipment Purchase

1. Prior authorization in writing, by the City's Public Works Director or his/her authorized representative 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.
2. For purchase of any item, service or consulting work not covered in the Task Order and exceeding \$5,000 prior authorization by the City's Public Works Director or his/her authorized representative; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
3. 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, the City shall receive a proper refund or credit at the conclusion of the Contract, or if the Contract is terminated, Consultant may either keep the equipment and credit the City in



an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established City procedures; and credit the City in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the City and Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the City." 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.

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

K. Forms

Consultant shall complete, execute, and submit to The City's Public Works Director or his/her authorized representative the following forms as required for execution and or performance under this Contract:

1. Forms/Documentation Required for Execution of Contract
 - a. Consultant Certification of Contract Costs and Financial Management System (LAPM Exhibit 10-K)
 - b. Cost Proposal (LAPM Exhibit 10-H2)
 - c. Disclosure of Lobbying Activities (LAPM Exhibit 10-Q)
 - d. Consultant Proposal DBE Commitment (LAPM Exhibit 10-O1)
 - e. Consultant Contract DBE Commitment (LAPM Exhibit 10-O2)
 - f. DBE Information - Good Faith Efforts (LAPM Exhibit 15-H) (if necessary)
2. Forms that May Be Requested by the City's Public Works Director or his/her authorized representative
 - a. Final Report – Utilization of DBEs (LAPM Exhibit 17-F)
 - b. DBE Certification Status Change (LAPM Exhibit 17-O)
 - c. Indirect cost rate calculations and documentation
 - d. Copies of prior and current CPA indirect cost rate (ICR) audit reports and rate schedules, if any



* Other forms may be required by State and Federal Law or Funding Requirements and Consultant shall be required to fill out and sign those forms in a timely manner as requested.

**LAPM = Local Assistance Procedures Manual

8. INDEPENDENT CONTRACTOR

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

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

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

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

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

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

9. AUTHORITY OF CONSULTANT

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

10. CONFLICT OF INTEREST

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



11. AMENDMENTS, CHANGES OR MODIFICATIONS

Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the Parties hereto and shall be signed by the persons authorized to bind the Parties. Amendments, changes or modifications in the terms of Task Orders may be made at any time by mutual written agreement at the discretion of the City's Public Works Director, or his/her authorized representative.

12. TERMINATION

A. This Contract may be terminated by City, provided that City gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, City shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 16, Property of City.

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

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

D. In the event of termination, Consultant shall be compensated as provided for in this Contract, except as provided in Section 12C.

13. FUNDING

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

14. NOTICE TO PROCEED

Prior to commencing work under this Contract, Consultant shall receive a written "Notice to Proceed" from City. A Notice to Proceed shall not be issued until all necessary bonds and



insurances have been received. City shall not be obligated to pay Consultant for any services prior to issuance of the Notice to Proceed.

15. EXTENSIONS OF TIME

Consultant may, for good cause, request extensions of time to perform the services required hereunder. Such extensions shall be authorized in advance by City, in writing, and at City's sole discretion. Such extensions, if authorized, shall be incorporated in written amendments to this Contract or the attached Scope of Work in the manner provided in Section 11.

16. PROPERTY OF CITY

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

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

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

17. COMPLIANCE WITH LAW

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



18. REPRESENTATIONS

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

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

C. Consultant shall designate a project manager who at all times shall represent the Consultant before the City on all matters relating to this Contract. The project manager shall continue in such capacity unless and until he or she is removed at the request of City, is no longer employed by Consultant, or is replaced with the written approval of City, which approval shall not be unreasonably withheld.

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

19. APPROVAL OF STAFF MEMBERS

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

B. Consultant shall at all times provide staff that maintains professional demeanor and attire in both public and private settings. Personnel who do not deliver satisfactory professional or customer service shall be removed by the Consultant immediately at the request of the City's Public Works Director, or his/her authorized representative, and immediately replaced, if necessary, with other qualified personnel in accordance with section 18 provision A.

20. ASSIGNMENT AND SUBCONTRACTING:

A. Except as expressly authorized herein, Consultant's obligations under this Contract are not assignable or transferable, and Consultant shall not subcontract any work, without the prior



written approval of the City. However, claims for money due or which become due to Consultant from City under this Contract may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to City.

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

21. MATERIALS CONFIDENTIAL

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

22. LIABILITY OF CONSULTANT—NEGLIGENCE

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

23. INDEMNITY AND LITIGATION COSTS

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



obligated to defend, indemnify, and hold harmless the City, its officers, officials, employees, volunteers, and agents pursuant to this Agreement. The provisions of this section shall survive termination or suspension of this Contract.

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

24. EVIDENCE OF INSURANCE COVERAGE

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

TYPE	SINGLE LIMIT / OCCURRENCE	AGGREGATE	ENDORSEMENTS***
General Liability (1D)	\$1,000,000	\$2,000,000	Additional Insured Waiver of Subrogation Primary Non-Contributory
Auto Liability (2C)	\$1,000,000 Scheduled, Hired and Non-Owned		Additional Insured
Work Comp (3A) Employer’s Liability	Statutory \$1,000,000 each		Waiver of Subrogation
Professional Liability (4C)	\$5,000,000	\$5,000,000	(3 year tail)

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

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

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



25. EVIDENCE OF INSURANCE COMPLIANCE

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

26. EMPLOYMENT PRACTICES

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

27. UNAUTHORIZED ALIENS

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

28. LICENSES, PERMITS, AND OTHER APPROVALS

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

29. RECORDS AND INSPECTION

Consultant shall maintain records, books, documents and other evidence directly pertinent to the performance of work under this Contract in accordance with generally accepted accounting principles and practices. 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 City 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, City, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of Consultant and its 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.

30. MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

G. Construction and Interpretation: Consultant and City agree and acknowledge that the provisions of this Contract have been arrived at through negotiation and that each party has had a full and fair opportunity to revise the provisions of this Contract and to have such provisions



reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Contract shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as a substantive portion of this Contract.

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

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

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

K. Non-Discrimination/Non-Preferential Treatment Statement: In performing this Contract, the parties shall not discriminate or grant preferential treatment on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, and shall comply to the fullest extent allowed by law, with all applicable local, state, and federal laws relating to nondiscrimination.

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

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

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

City of Elk Grove

Consultant Name

Re: On-call Construction Management Services



31. ENTIRE AGREEMENT

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

AGREED to this _____ day of _____, 20____, by the Parties as follows:

Approved to as form:

CONSULTANT

By: _____
Attorney for Consultant

By: _____
Consultant Name, Title

Approved to as form:

CITY OF ELK GROVE

By: _____
Jonathan P. Hobbs, City Attorney

By: _____
Jason Behrmann, City Manager

Attest to:

Jason Lindgren, City Clerk Date



EXHIBIT A

Scope of Work

All services performed under this Contract shall be in conformance with all applicable Local, State, and Federal standards, regulations, policies and procedures. Services provided by Consultant shall be on an On-Call basis as requested by the City in writing over the term of the Contract period. Consultant shall perform a task in any one, or a combination of, services within the Consultant area of expertise as listed below and as requested by City in a written Task Order signed by the Public Works Director or his/her authorized representative. The City has no obligation to request any services under this Contract.

Request for services shall be made by City on a project-by-project basis under a Task Order approved by the City specifying a detailed scope of work, schedule, budget and performance measurements. All Task Orders shall be prepared based on the approved schedule of fees of this Contract and in accordance with each Task order. On an as needed basis, Consultant shall provide the following on-call services:

1. Construction Management Services

- a. Develop final construction management staffing plan and project management plans for the construction and completion of capital improvement and other projects in accordance with the schedules of assigned projects.
- b. Review all design plans, project implementation and construction contracts, project schedules and applicable project management guidelines.
- c. Perform and assist in performing the duties of a Construction Inspector including civil, electrical, landscape, structural, and utility construction engineering. This work includes, but is not limited to, completing daily diaries, performing quantity calculations, checking grade and alignment, materials sampling and control, coordinating scheduling, reviewing certified payroll, conducting labor compliance interviews, and any other task, i.e. LEED commissioning, necessary to document and ensure compliance with project plans and specifications. Also, work shall include measuring and verifying progress of work for payment purposes.
- d. Perform office engineering including, but not limited to: developing and processing Contract Change Orders, reviewing shop drawings, calculating pay quantities, and preparing engineering and As-built drawings, preparing calculations, records, reports and correspondence related to project activities,



deploying project controls activities, including identifying actual and potential problems associated with the construction project and recommend solutions.

- e. Provide Contract administration and support services, including preparing correspondence, processing progress pay estimates and extra work billings, reviewing billings, and developing and maintaining complete and accurate project files, including asset management systems and electronic records management in accordance to Caltrans file and record procedures.
- f. Provide construction engineering support to analyze project schedules for Contract compliance purposes. In addition, the Consultant shall provide analysis of time impacts to the project schedule and provide recommendations.
- g. Review, recommend, and provide contract dispute expertise for project protests, Notice of Potential Claims, and Contract Claims. This work includes, but is not limited to, claims resolution principles, claims avoidance techniques, timeline awareness, risk analysis, and claim report writing.
- h. Provide materials sampling and testing for construction projects. Perform and assist in performing materials and/or product manufacturing inspection in the field or at the manufacturer's plant location. Perform and assist in performing special inspections for building construction. This work includes, but is not limited to, verifying the materials and/or products conform to the plans, specifications, material tests, and quality control.
- i. Conduct constructability reviews on draft construction plans and specifications and prepare an evaluation report of findings per applicable standards. The reviews shall identify contract plans and specification errors, omissions, and inconsistencies and assure overall Plan, Specification, & Estimate (PS&E) constructability, operability, and maintainability.
- j. Provide support services for geotechnical and related work, including pavement condition assessment, for specific locations as requested. This work includes, but is not limited to, performing field investigations, evaluating and making recommendations for conditions encountered during construction.
- k. Conduct storm water monitoring to comply with Court Orders, fulfilling all permit obligations, and other activities as deemed appropriate. Prepare and/or ensure preparation of reports for CITY, Caltrans, Regional Water Quality Control Board(s) (RWQCB), and other agencies as appropriate.



- l. Provide surveying and construction staking, for specific locations as requested. The Consultant shall perform surveying services using the latest technological equipment, including Global Positioning System (GPS) equipment. The information shall be submitted in digital formats as requested.
- m. Review Contractor provided traffic control plans for work within the public right-of-way.
- n. Provide proactive on-site coordination with utility owners such as SMUD, PG&E, AT&T, and Comcast and construction contractors. Coordinate installation and testing services with the utility owners and contractors, as needed.
- o. Provide City with electronic copies of all plans, designs, reports, permits and agreements, and contracts prepared under this scope of work.

2. Other Related Project Management Services

- a. Provide public information services including, but not limited to, preparing presentation and report materials, conducting public meetings, preparing materials and providing contacts for the media, preparing public notices and materials (e.g., brochures, etc.), preparing video simulations, maps, power point presentations, and graphics.
- b. Provide technical and report writing services, including, but not limited to, conducting research, completing studies in specific areas, and developing work plans.

3. Personnel

The types of personnel that the Consultant shall be required to have available to provide the services requested include, but are not limited to:

- a. Project Managers — The Consultant's Project Manager shall coordinate all matters with the City Project Manager, and meet, as needed, to discuss progress on the project(s). In addition to other specified responsibilities, the Project Manager shall be licensed as a Registered Civil Engineer in the State of California, with Public Agency construction and contract administration experience in the State of California. The Project Manager is responsible for all matters related to the Consultant personnel and operations.
- b. Design Engineers — The Consultant shall provide design engineering staff with experience in bridge, highway and facility design.



- c. Resident Engineers (RE) — The RE shall be licensed as a Registered Civil Engineer in the State of California and shall perform all functions and responsibilities of a Construction Resident Engineer in administering the contracts they have been assigned.
- d. Structures Representatives (SR) — The SR shall be licensed as a Registered Civil Engineer in the State of California and shall perform all functions and responsibilities of a Construction Structures Representative in administering the contracts they have been assigned. The SR may also serve as the RE on the same project.
- e. Assistant Resident Engineers (ARE) — The ARE shall demonstrate construction contract administration experience and be capable of assisting the Resident Engineer in all aspects of required field and office construction engineering work.
- f. Field Inspectors — The Consultant shall provide field construction inspectors, which have construction engineering experience on highway and major public works projects, structural inspectors, which have experience in structural construction inspection, building inspectors, which have demonstrated experience inspecting and managing building construction, and utility inspectors, which have demonstrated experience inspecting above or below ground utilities.
- g. Land Surveyors (LS) — The Consultant shall provide LS capable of performing surveying and construction staking for specific locations as requested. LS shall be capable of performing surveying services using the latest technological equipment, including Global Positioning System (GPS) equipment.
- h. Field Office Engineers/Draftspersons — Construction Office Engineers and Draftspersons shall demonstrate construction administration and engineering related experience and be capable of assisting the Resident Engineer in all aspects of required office construction engineering duties.
- i. Contract Claims Engineers — Contract Claims Engineers shall demonstrate construction contracts experience.
- j. Construction Materials Testers — Materials Testers shall possess proper certification, as required and shall be capable of assisting the Resident Engineer in all aspects of material testing work.



- k. Production Staffing – Production Staff includes, but is not limited to, graphic designers and report writers.

4. Equipment

The types of equipment that City shall require the Consultant to have available to provide the services requested include, but are not limited to:

- a. Office Equipment and Supplies (Consultant’s Office) — The Consultant shall have adequate office equipment and supplies to complete the required work. Such equipment and supplies shall include, but are not be limited to, computers, printers, plotters, and calculators.
- b. Field Office, Equipment, and Supplies — The Consultant shall provide adequate field office, equipment and supplies as needed to complete the required field engineering work. The field office, equipment and supplies for field construction personnel could include, but is not limited to, personal protective equipment, field office facilities, vehicles suitable for the work to be performed, communications, computers, field office equipment, and supplies, access to all testing and laboratory facilities and equipment. In some circumstances the field office may be furnished by City.

City of Elk Grove

Consultant Name

Re: On-call Construction Management Services



EXHIBIT B

Schedule of Performance

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



EXHIBIT C

Compensation and Method of Payment

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

Provide Fee Schedule in the format shown in Local Assistance Procedures Manual (LAPM) Exhibit 10-H2 “Cost Proposal” for use with On-Call or As-Needed Contracts.

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

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

Note: Mark-ups are Not Allowed

Consultant _____ Prime Consultant Subconsultant

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

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

BILLING INFORMATION

CALCULATION INFORMATION

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

NOTES:

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



EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3

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

Consultant _____ Prime Consultant Subconsultant

Project No. _____ Contract No. _____ Date _____

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

Note: Add additional pages if necessary.

NOTES:

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



EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

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

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

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

Prime Consultant or Subconsultant Certifying:

Name: _____ Title *: _____

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

Email: _____ Phone Number: _____

Address: _____

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

List services the consultant is providing under the proposed contract:



EXHIBIT D

Insurance Requirements

Prior to commencement of any work under this Contract, Consultant shall provide to the City proof of, and maintain in full force and effect at all times during the term of the Contract, at its sole cost and expense, policies of insurance as set forth herein:

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

Each occurrence:	One Million Dollars (\$1,000,000)
Products & Completed Operations:	One Million Dollars (\$1,000,000)
Personal & Advertising Injury:	One Million Dollars (\$1,000,000)
 - e. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents, and authorized volunteers for losses arising from work performed by the Consultant.
2. Automobile Liability:
 - a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of operation, maintenance, or use of hired, and non-owned automobiles.
 - b. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbols 8, and 9 (hired, and non-owned).
 - c. The limits of liability per accident shall not be less than:

Combined Single Limit	One Million Dollars
-----------------------	---------------------

(\$1,000,000)
 - d. If general liability coverage, as required above, is provided by the Commercial General Liability form, the automobile liability policy shall include an endorsement providing automobile contractual liability.
3. Worker's Compensation



- a. Worker's Compensation Insurance, with coverage as required by the State of California (unless the Consultant is a qualified self-insurer with the State of California), and Employers Liability coverage. The Consultant shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in Exhibit E.
 - b. Employer's Liability Coverage shall not be less than One Million Dollars (\$1,000,000).
 - c. If an injury occurs to any employee of the Consultant for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due the Consultant under this Contract, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the Consultant.
 - d. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents, and authorized volunteers for losses arising from work performed by the Consultant.
4. Errors and Omissions; Malpractice; Professional Liability. Errors and omissions, malpractice, or professional liability insurance with coverage of not less than Five Million Dollars (\$5,000,000) per occurrence. Upon termination of this Contract, the same insurance requirements in Section 4 of this Exhibit will apply for a one (1) year period following such termination. A "tail" policy may be purchased as an alternative to satisfy this requirement.
5. Other Insurance Provisions: The general and auto liability coverage shall contain the following provisions and endorsements:
- a. The City, its officials, employees, agents and authorized volunteers shall be covered and specifically named as additional insured as respects liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied, or used by the Consultant, or automobiles leased, hired, or borrowed by the Consultant on a separate endorsement acceptable to the City.
 - b. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents, or authorized volunteers.
 - c. Provision or endorsement stating that for any claims related to this contract, the Consultant's insurance coverage shall be primary insurance as respects the City,



its officials, employees, agents, and authorized volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officials, employees, agents, or authorized volunteers shall be in excess of the Consultant's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss or judgment.

- d. Any failure to comply with reporting or other provisions of the policies on the part of the Consultant, including breaches of warranties, shall not affect Consultant's requirement to provide coverage to the City, its officials, employees, agents, or authorized volunteers.
6. **Acceptability of Insurers:** Insurance is to be placed with insurers with a **Bests' rating of no less than A:VII.**
7. Any deductibles, aggregate limits, pending claims or lawsuits that may diminish the aggregate limits, or self-insured retention(s), must be declared to, and approved by, the City.
8. The Consultant shall furnish the City with certificates of insurance and original endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this Contract. At the written request of the City, Consultant agrees to furnish a duplicate original or certified copy of each required policy including the declaration pages, conditions, provisions, endorsements, and exclusions.
9. The City, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.
10. The Consultant shall serve the City notice, in writing by certified mail, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement that concern the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage proposed or otherwise.
11. If the Consultant fails to procure or maintain insurance as required by this section, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained



from any sums due the Consultant under the contract.

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



EXHIBIT E

Certificate of Compliance With Labor Code § 3700, Release and Indemnification

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

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

CONSULTANT

By: _____

Date: _____

Name: _____

Title: _____



EXHIBIT F

Required Forms

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

LAPM = Caltrans Local Assistance Procedures Manual

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

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

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

APPENDIX C: DBE INFORMATION

Exhibit 10-I Notice to Proposers DBE Information

The Agency has established a DBE goal for this Contract of 13 %

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.

○ 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.

○ SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Request for 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.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

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

○ **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 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.

- **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.