

---

# City of Alameda California



## Request for Proposal

### Design of Cross Alameda Trail Main Street to Webster Street

**August 2014**

#### Important Dates

Proposal Due Date:	Thursday, September 11, 2014
Selection Interviews:	Thursday, September 25, 2014
Contract Award:	Wednesday, November 5, 2014
Project Start Date:	Monday, November 10, 2014

#### Contact:

Gail Payne, Transportation Coordinator  
950 West Mall Square, Room 110, Alameda CA 94501  
Phone: (510) 747-7948 / Email: [gpayne@alamedaca.gov](mailto:gpayne@alamedaca.gov)

# Table of Contents

## Introduction

- Purpose of the Request
- Timetable
- Project Manager

## Background

## Scope of Services

## Proposal Format

- Proposal Submission Instructions
- Proposal Content Guidelines

## Selection Process

- Process
- Limitations
- Oral and Written Explanations
- City Responsibilities

## Conditions of Request

- General Conditions
- Liability of Costs and Responsibility
- Validity
- Standard Consultant Agreement
- Permits and Licenses
- Oral and Written Explanations
- Proposer's Representative
- Deliverables
- Insurance
- Federal Requirements

## Attachments:

- Attachment A: Proposed Cross Section
- Attachment B: Standard City Consultant Agreement (with Federal Standard Contract Provisions for Subconsultant / DBE Participation, Exhibit 10-J)
- Attachment C: Certification of Consultant, Commissions & Fees (Caltrans Exhibit 10-F)
- Attachment D: Non-Lobbying Certification Contracts (Caltrans LAPM Exhibit 10-P)
- Attachment E: Notice to Proposers – DBE Information (Caltrans LAPM Exhibit 10-I)
- Attachment F: Good Faith Effort (if applicable) (Caltrans LAPM Exhibit 15-H)
- Attachment G: Local Agency Consultant DBE Commitment (Caltrans Exhibit 10-O1)
- Attachment H: Local Agency Consultant DBE Information (Caltrans Exhibit 10-O2)
- Attachment I: Sample Cost Proposal (Caltrans Exhibit 10-H)
- Attachment J: Consultant Certification of Contract Costs and Financial Management System (Caltrans LAPM Exhibit 10-K)

# INTRODUCTION

The City of Alameda Public Works Department is seeking individuals, teams, firms or a combination thereof interested in providing civil engineering and landscape design services to construct a 0.8 mile segment of the Cross Alameda Trail that will run parallel to and south of Ralph Appezato Memorial Parkway between Webster Street and Main Street in an abandoned railroad right-of-way, which is now owned by the City of Alameda (City) (Figures 1 and 2). Attachment A shows a proposed cross section of the trail, which allots 38 feet for the trail. The project – including design and construction - is expected to cost \$1.8 million, and will be paid for by Alameda County's transportation sales tax - Measure B, the County's Vehicle Registration Fee, the Federal Transit Administration, the Citywide Development Fee, Transportation Development Act and the Bay Area Air Management District. The Cross Alameda Trail will be designated as a segment of the San Francisco Bay Trail.

## Purpose of the Request

The City is seeking submittals that include engineering and landscape design services of a firm to work under the direction of Public Works staff to provide construction plans and specifications in preparation for a construction bid process.

## Timetable

**Responses to this Request for Proposal (RFP) are due and must be received in the Public Works Office, 950 West Mall Square, Room 110, Alameda, CA 94501, no later than 2:00 p.m., Pacific Daylight Time, on Thursday, September 11, 2014.** Responses must be addressed to the attention of Gail Payne, Transportation Coordinator. The following schedule has been established for this Request for Proposal (RFP):

RFP Release Date	Thursday, August 21, 2014
Proposals Due	Thursday, September 11, 2014
Interviews Scheduled	Thursday, September 25, 2014
Consultant Selected	Tuesday, September 30, 2014
Final Contract Negotiations	Tuesday, October 7, 2014
City Council Approval of Contract	Wednesday, November 5, 2014
Project Start Date	Monday, November 10, 2014
Project Completion	Monday, January 19, 2015
As Built Drawing Completion	September 2015

## Project Manager

This project will be administered by the City of Alameda Public Works Department. All questions or correspondence must be addressed to:

Gail Payne, Transportation Coordinator  
Public Works Department  
950 West Mall Square, Room 110  
Alameda CA 94501  
Phone: (510) 747-7948 | Email: [gpayne@alamedaca.gov](mailto:gpayne@alamedaca.gov)

## BACKGROUND

The proposed project is one of the segments in the City's Cross Alameda Trail Feasibility Study (2005). This section parallel to Ralph Appezzato Memorial Parkway (RAMP) between Main Street and Webster Street will be the first Cross Alameda Trail section to be completed (Figures 1 and 2). There are no pedestrian facilities on the south side of the street and no bicycle facilities along the street. Ultimately, the entire Cross Alameda Trail will extend between the Sea Plane Lagoon in Alameda Point and Tilden Way, which is a total of almost four miles. In the long term, exclusive bus lanes are expected to share the northern part of the abandoned railroad right-of-way with the proposed paths.

RAMP connects Alameda Point, high-density housing and the historic Webster Street Business District on vacant property formerly used by the Alameda Belt Line Railroad. Along this corridor is the College of Alameda (COA), the Alameda Science and Technology Institute (public high school at COA), shuttle stops for the Alameda Paratransit Shuttle, the Alameda Boys and Girls Club, various schools on adjacent Third Street and high-density housing - Bayport and Summerhouse. At the eastern end, there are bus stops for AC Transit's 51A, 31, 20, O and W bus routes. The 51A, 20, 31 and the Estuary Crossing Shuttle connect to downtown Oakland (including BART) while Lines O and W offer Transbay bus service to San Francisco.

The proposed segment will enhance access for bicyclists and pedestrians by constructing a facility to separate them from the five lanes of vehicle traffic on RAMP, which has traffic volumes totaling about 20,000 vehicles per day and 85th percentile speeds of 39-40 miles per hour. Attachment A shows a proposed cross section of the trail, which is 38 feet wide. The proposed path segment is 0.8 miles long, and will include the following main components:

- Asphalt bicyclist and pedestrian paths – elevated in some areas to reduce flooding;
- Decomposed granite jogging path – elevated in some areas to reduce flooding;
- Connector paths to two intersecting streets: Fifth Street and West Campus Drive;
- Fifth Street bike lane re-striping at RAMP to change its positioning;

- Bicycle curb ramp on RAMP at Fifth Street;
- Wayfinding signs at all the intersecting streets;
- Bicycle lockers at Webster Street;
- New trees (a total of 65 – 24 inch box) and bioswale for landscaping and drainage improvements consistent with the Bay-Friendly Landscape Guidelines and the Urban Greening Plan;
- Additional drainage improvements, as needed, for urban runoff control; and
- Intersection improvements for accessibility to ensure ADA compliance including accessible pedestrian signals and curb ramps with truncated domes.

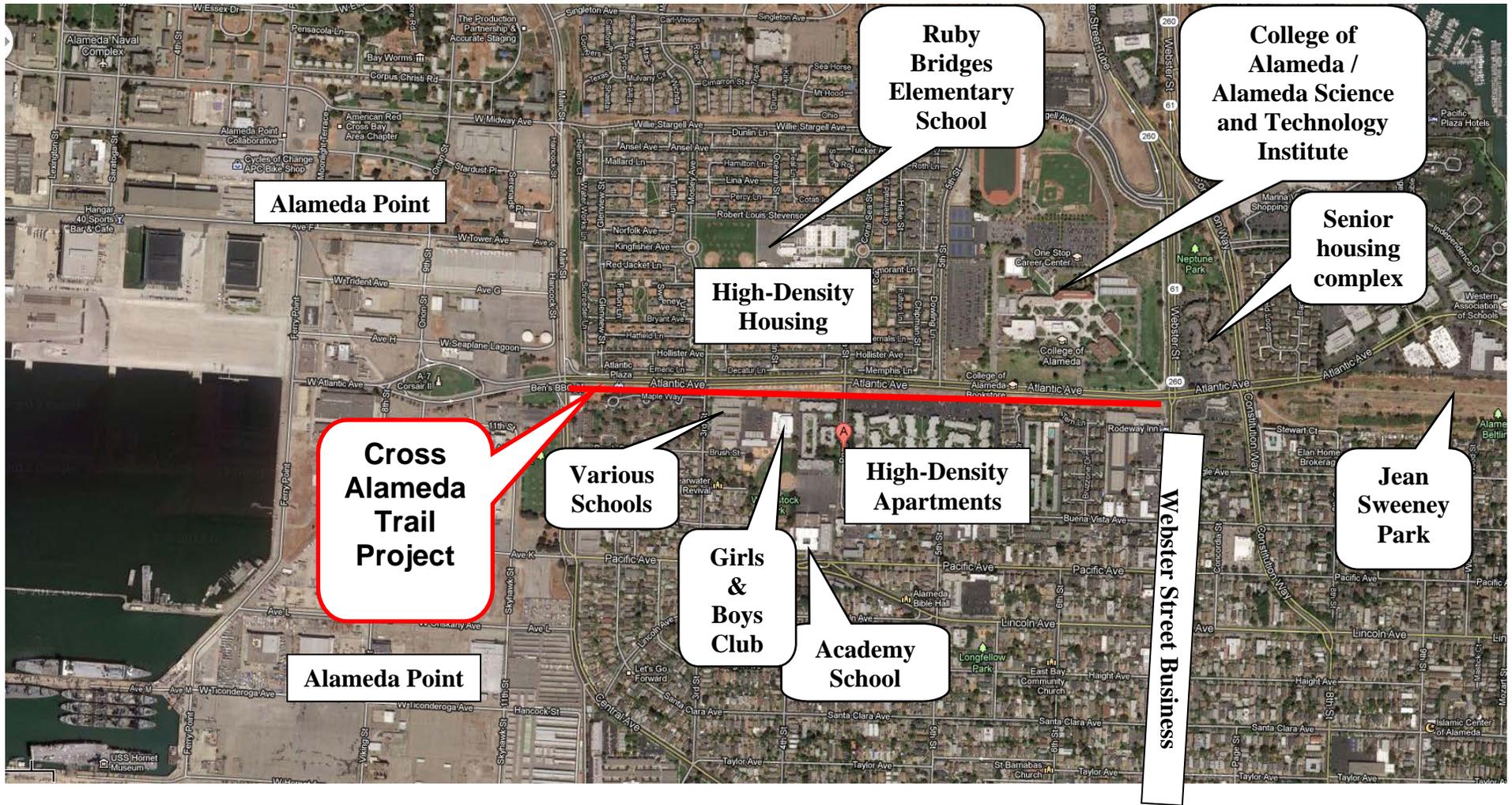
Some features to consider including:

- Benches in key spots (but not adjacent to residential areas);
- Trash/recycling bin area (adjacent to benches);
- Bike racks (adjacent to benches);
- Trees to be initially watered by polymers or tree bags - no irrigation;
- Trees to be preferably additional coast live oaks or other native, drought resistant trees;
- Existing coast live oak trees to be protected include three specimens west of Third Street, which are greater than 10 inches diameter at breast height;
- Gateway feature on Webster Street at RAMP;
- Gate connecting adjacent Summerhouse apartment complex and the trail;
- Barrier or fencing by the schools on Third Street and Alameda Boys and Girls Club to ensure separation of adjacent motorists from the bike/pedestrian path;
- Recycled content products such as tire derived products or recycled asphalt for the walkway – information on cost implications, performance and purchase process;
- New marked crosswalks at Poggi Street and at Fifth Street; and
- Path designs that lead to marked crosswalks at existing signalized intersections.

Public Works staff is working with a surveyor to provide a record of survey map, locate fences and potential encroachments, stake the southern property line of the City parcels and prepare exhibits along Ralph Appezzato Parkway and the abandoned railroad right-of-way. Public Works staff also is working on the environmental review for this trail project.

***This project is on a tight timeline with construction expected to begin in May 2015 and end by August 2015.***

**Figure 1: Project Limits/Location Map**



**Figure 2: Existing Condition Photos**



# SCOPE OF SERVICES

The City of Alameda (City) is seeking an individual or team of professionals (Consultant) to enter into a contract with the City for the design of the Cross Alameda Trail. Specific responsibilities with respect to the Consultant are outlined in this section.

## **1. Project Initiation and Ongoing Tasks**

### **Task 1 – Project Initiation with the Consultant**

City staff will hold a kick-off meeting with the Consultant to:

- Make necessary introductions;
- Confirm the study's overall vision, goals and objectives;
- Define project expectations (reporting, project completion schedule, invoicing, frequency of status meetings);
- Provide the necessary background information such as base maps, existing planning and engineering feasibility studies, traffic studies, geotechnical reports for local developments, Phase I report, as-built drawings of existing streets and other resource documents, as needed.

The Consultant will produce a *Work Plan and Timeline* confirming contents of all project deliverables, a meeting schedule and deadlines.

## **2. Existing Conditions**

### **Task 2 – Identify Existing Conditions and Background Information**

The Consultant will identify existing conditions and background information as follows:

- Review background information provided and obtain any further information, as needed. Information may include adjacent structures and fencing, existing and planned bicycle and pedestrian facilities in the area, available public right-of-way of cross streets, information on historic or protected trees and applicable Alameda Municipal Code regulations;
- Organize a site visit and note any unusual field conditions during the trip as well as mark the exact location of historic trees to be preserved;
- Perform hydraulic analysis; and
- Develop an *Existing Conditions Plan in AutoCAD 2012 with an aerial background* using 1 inch = 40 foot scale. The plan will be used as the demolition plan in the final construction drawing in Task 4, and will show the boundaries using the surveyor information and any easement that will be used to implement the trail plan. The plan also will show trees to remove and protect and other existing features.

### **3. Options Analysis and Refinement**

#### **Task 3.1 – Options Development**

The Consultant will prepare two partial design options for the two endpoint areas of the project – Main Street and Webster Street. These options will be presented to City staff for consideration and selection. The options may include different path or bioswale alignments based on natural features, potential adjacent exclusive bus lanes, proposed bicycle lockers at Webster Street or an easement at Main Street.

#### **Task 3.2 – Options Refinement**

Based on feedback from City staff, the Consultant will refine the design for the Main Street and Webster Street areas.

### **4. Project Finalization**

#### **Task 4.1 – Draft Construction Plans and Specifications**

The draft construction package will consist of a cover sheet, demolition plans, improvement plans and specifications at 60 percent completion level as follows:

- **Demolition Plans:** Will indicate sections of sawcut, clearing and grubbing, building/fence demolition, pavement/curb demolition, striping/sign removals, utility cover locations and changes, other features to remove and features to protect.
- **Improvement Plans:** Will indicate proposed curbs, paths, ramps, signs/poles, bicycle lockers, Webster Street gateway feature, Summerhouse gate, striping, intersection improvements, fencing, path amenities, bioswale and trees.
- **Specifications:** Will include scope of work, control of work and materials, line item quantities, materials, description and location of work, construction details.

This task involves the development of drawings in AutoCAD 2012 with 1 inch = 40 foot scale drawings using an aerial background. Improvements will comply with City standards, Bay-Friendly Landscape Guidelines and the California Manual on Uniform Traffic Control Devices, 2012 edition. This task provides allowance for one round of plans and specification revision and written comment responses as well as two sets of hard copy plans provided in 24 inch by 36 inch format.

#### **Task 4.2 – Final Construction Plans and Specifications**

The Consultant will provide finalized plans and specifications that are ready to begin the construction bid process.

#### **Task 4.3 – As Built Construction Plans**

After construction, City staff and the Consultant will finalize the plans based on actual construction to develop an “as built” version of the plans. Upon construction completion, City staff will provide the Consultant with one set of redline markups of the plans to indicate changes that occurred during construction. From a walk through and the redline version, the Consultant will generate the “as built” plans.

# PROPOSAL FORMAT

## ***Proposal Submission Instructions***

All proposals must meet the content requirements and format guidelines listed below in the "Proposal Content Guidelines" section. The complete proposal shall be submitted by the due date in a sealed envelope marked "CROSS ALAMEDA TRAIL". A total of five (5) copies of the proposal shall be submitted in a sealed envelope, which details the business name, business address and contact person of the respondent.

All proposals must be received in the City of Alameda Public Works Department by **Thursday, September 11, 2014 at 2:00 p.m.** No proposals shall be accepted after that time. Hand delivery before the deadline is recommended. **Proposals received after the time and date listed above shall be returned to the proposer unopened.**

## ***Proposal Content Guidelines***

Proposals should include the following:

- A letter of introduction briefly describing an understanding of the requested scope of work and qualifications to undertake this work such as experience in providing like services, background of the firm(s) and resumes of the staff involved.
- Additional material such as brochures and photos, promotional material, references, and supplemental graphics, applicable to the content of the proposal.
- Signature by an individual authorized by the firm or partnership.
- Completed, signed and dated, Attachments C, F, G H, and J.

### Project Team:

- a) Prime Consultant(s): Name of entity submitting the proposal, its mailing address, telephone and facsimile number, the name of contact individual as well as the signature of principal/owner/officer in case of joint venture or other.
- b) Sub-Consultants: List sub-consultants with individual addresses, telephone numbers, facsimile numbers and areas of expertise.
- c) Briefly describe the project responsibility of each team member. Identify which consultants or sub-consultants are Minority Owned Business Enterprise (MBE), Women Owned Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), and/or locally owned business.

### Project Personnel:

Description of organization, management, and team members. Provide a description of team/consultant organization and a work plan that identifies the

personnel to be assigned to each task. The organization description should clearly identify the project manager and the day-to-day contact person for the project. Contract terms will not permit substitution of lead personnel without prior approval by the City. A description of qualifications of the professional personnel to be employed with a summary of similar works performed and a resume for each professional.

#### Major Projects List

Provide a list of similar projects both on-going and planned, to which the project team is committed. Include the following information about each project:

- a. project name and location
- b. project type
- c. brief project description
- d. description of how the consultant worked to incorporate the interests of the client, community groups and other stakeholders
- e. project time frame
- f. consultant's work scope
- g. consultant's fee
- h. staff who worked on the project and their respective roles
- i. client information, including contact person's name, address, and telephone number.

#### References, Related Experience and Examples of Work

Describe experience in providing comprehensive design, engineering, and project management services for projects of the size and scope similar to this project. Specifically provide information and examples of:

- Development of landscape designs and construction plans and specifications for multi-use bike/pedestrian facilities.
- Provide details of projects that have included bioswales and other natural drainage features.
- Provide details of the firm's experience with Bay-Friendly Landscape and any similar landscape programs or regulations.
- Provide details of the firm's experience in completing projects with City of Alameda. State the firm's experience in this regard.

Provide client references with phone numbers for relevant work. Specify the client, location, consultant firm members and participating individuals and role on team (principal, project director, etc.), type of work, implementation results or status, examples of work, and other relevant information as needed.

#### Base Bid and Fee Schedule

Provide detail of all costs, including prime's costs, costs of all subcontracts, subtasks, and direct cost items. Include as a separate line item, cost of

reimbursable or provide a reasonable allowance. Provide hourly rates for applicable staff positions.

### Contract

Comments and exceptions, if any, to the City's standard consultant agreement and insurance requirements should be noted. It is understood that prospective Consultants have reviewed the agreement (Attachment B) and will take exception only to those items identified in the proposals. If there are any concerns or proposed exceptions requested to the standard consultant agreement, these issues are to be discussed at the time of the interview.

### DBE Contract Goal

The DBE contract goal for this contract is **15.0 percent**. The winning proposer shall take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49 CFR 26).

### Project Schedule and Deliverables:

- a) **Proposed Project Schedule:** The proposal shall include a schedule to undertake the work program. Consultant shall incorporate review period of all relevant departments into the schedule. Updated project schedule shall be provided at regular intervals.
- b) **Deliverables:** The Consultant, immediately after signing agreement with the City, will develop a system to assemble, organize, prepare, store, and use data both in hard copy form and in electronic format. The standards developed by the Consultant for the project (both electronic and hard copy) must be in accordance with City standards and approved by the Public Works Director. The Consultant is to provide the documents for each task.

# SELECTION PROCESS

## ***Process***

The selection process shall proceed as follows:

1. Based upon the submitted written responses to this RFP, the City selection team shall select up to three Consultant teams to interview.
2. At the interview, the selection team will expect the Consultant team to present its team members and their qualifications. The project manager must be present for the interview/presentation. The presentation will be followed by a question and answer period by the selection team.

The final selection will be based upon the following criteria:

- The team's past experience with similar projects. (30%)
- The quality and experience of the project manager and key staff persons who will be working on the project on a daily basis and percentage of time/commitment of key team leaders to the project. (30%)
- The team's understanding of the scope of work and demonstrated ability to complete the work successfully. (20%)
- The team's cost competitiveness. (10%)
- The firm's ability to meet standard City contract requirements. (10%)

The City will not discriminate against any interested firm or individual on the grounds of race, creed, color, sex, age, disability, or national origin in the contract award. The City reserves the right to reject any and all proposals at its discretion, thus not awarding the contract to any firm. The City reserves the right to modify this RFP or the criteria for selection in any manner, to cancel this RFP, or to reject any one or more or all submittals.

The City reserves the right to invite the top candidate(s) for an oral interview, or to request additional clarifying information. The firm with the highest rating may be invited to negotiate a final agreement. If an agreement is not reached, negotiations may be terminated and commenced with the next most qualified firm. The recommendation of the Public Works Department shall be submitted to the City Council for award of contract.

## ***Limitations***

All reports and pertinent data or materials shall be the sole property of the City, and may not be used or reproduced in any form without the explicit written permission of the City.

The City reserves the right to extend the time allotted for the proposal, to verbally examine the bidder in person, request copies of previous work prepared by the

Consultant, and to request a best and final offer, should the City deem that it is in its best interests to do so.

This RFP does not commit the City to award a contract, or to pay any costs incurred in the preparation of the proposal. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified Consultant, or to cancel this request in part or in its entirety. The City may require the selected Consultant to participate in negotiations and to submit such technical, price, or other revisions of their proposals as may result from negotiations.

### ***Oral and Written Explanations***

The City shall not be bound by oral explanations or instructions given at any time during the process or after the award. Oral explanations given during the review process and after award become binding when confirmed in writing by an authorized City official. Written responses to question(s) asked by one proposer will be provided to all proposers who received Requests for Proposals.

### ***City Responsibilities***

The City shall provide potential Consultants with:

- Appropriate background material related to the project; and
- Additional documents such as site maps, photographs, aerial photographs and diagrams.

This project shall be administered by the City of Alameda Public Works Department. All questions, correspondence and information requests should be addressed to:

Gail Payne, Transportation Coordinator  
Public Works Department  
950 West Mall Square, Room 110  
Alameda, CA 94501  
Phone: (510) 747-7948 | Email: [gpayne@alamedaca.gov](mailto:gpayne@alamedaca.gov)

### ***Bid Protest Procedure***

A proposer who submits, or who plans to submit, a proposal, may protest pursuant to the protest procedures applicable to this RFP as follows:

1. Protests based on the content of the RFP shall be filed with the City within five (5) calendar days after the RFP is first formally advertised. The City shall issue a written decision on the protest prior to opening of the proposals.

2. Any proposer may protest the recommended award or contract award by filing a protest with the City within (5) calendar days after the determination of the top-ranked firm or contract award has been made available to the proposers.
3. Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protesters shall have an opportunity to appear and be heard by the City prior to the opening of proposals in the case of protests based on the content of the request for proposals or after determination of top-ranked firm has been made available to the proposers in the case of protests based on other grounds or the renewal of protests based on the content of the request for proposals.
4. If a bid protest is properly filed, City staff will promptly initiate an investigation of the grounds of the bid protest. All proposers shall cooperate with any inquiries from City staff and consultants relating to the bid protest.
5. At the conclusion of their investigation, City staff shall complete a report (the Staff Report), including a recommendation regarding the disposition of the bid protest.

# **CONDITIONS OF REQUEST**

## ***General Conditions***

The City reserves the right to cancel or reject all or a portion or portions of the request for proposals without notice. Further, the City makes no representations that any agreement will be awarded to any organization submitting a proposal. The City reserves the right to reject any and all proposals submitted in response to this request or any addenda thereto.

The City also reserves the right to reject any subconsultant or individual working on a consultant team and to replace the sub-consultant or individual with a mutually acceptable replacement.

Any changes to the proposal requirements will be made by written addendum.

## ***Liability of Costs and Responsibility***

The City shall not be liable for any costs incurred in response to this request for proposals. All costs shall be borne by the person or organization responding to the request. The person or organization responding to the request shall hold the City harmless from any and all liability, claim or expense whatsoever incurred by or on behalf of that person or organization. All submitted material becomes the property of the City of Alameda.

The selected lead consultant will be required to assume responsibility for all services offered in the proposal whether or not they possess them within their organization. The selected lead consultant will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

## ***Validity***

The proposer agrees to be bound by its proposal for a period of ninety (90) days commencing September 11, 2014, during which time the City may request clarification or correction of the proposal for the purpose of evaluation. Amendments or clarifications shall not affect the remainder of the proposal, but only that portion so amended or clarified.

## ***Standard Consultant Agreement***

A sample consultant agreement has been provided in the Appendix for the proposer's review and comment. If a proposer wishes to take exception to any of the terms and conditions contained in the consultant agreement, these should be identified specifically; otherwise it will be assumed that the proposer is willing to enter into the agreement as it is written. Failure to identify contractual issues of dispute can later be

the basis for the City disqualifying a proposer. Any exceptions to terms, conditions, or other requirements must be clearly stated. Otherwise, the City will consider that all items offered are in strict compliance with the RFP, and the successful proposer will be responsible for compliance. The City will consider such exceptions as part of the evaluation process which may constitute grounds for rejection of the proposal. The consultant agreement will not be executed by the City without first being signed by the proposer.

### ***Permits and Licenses***

Proposer, and all of proposer's sub-consultants, at its and/or their sole expense, shall obtain and maintain during the term of any agreement, all appropriate permits, certificates and licenses including, but not limited to, a City Business License which will be required in connection with the performance of services hereunder.

### ***Proposer's Representative***

The person signing the proposal must be a legal representative of the firm authorized to bind the firm to an agreement in the event of the award.

### ***Deliverables***

One unbound copy of each final document and a computer disk containing all final documents and all information are to be provided. The consultant will develop a system to assemble, organize, store and utilize data in an electronic format. At the outset of the agreement, the consultant will submit a description of the software to be used in preparation of the reports and graphics. 15 copies, plus an electronic copy of the drawings will be required to be submitted during the design review process. Approximately six (6) sets of the construction bid documents will be required during the plan check review.

### ***Insurance***

General Liability, Automobile, Professional Liability, and Worker's compensation insurance are required in the amount set forth in the attached sample consultant agreement.

## ***Federal Requirements***

This contract will utilize federal funds. Federal requirements applicable to such contracts will apply.

### **A. Non-Discrimination Clause**

During the performance of this Contract, Consultant and its subconsultant shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract

### **B. Disadvantaged Business Enterprise (DBE) [49 CFR, Part 26]**

1. This RFP is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Proposers who obtain Disadvantaged Business Enterprise (DBE) participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
2. To ensure equal participation for DBE groups specified in 49 CFR 26, Caltrans specifies a contract goal for DBE participation. This RFP has a DBE goal of **15 percent**. The Proposal must meet the DBE goal by using DBEs as subconsultants or document a good faith effort (see Attachment F) to meet the goal. If a DBE subconsultant is unable to perform, the selected consultant must make a good faith effort to replace him/her with another DBE subconsultant if the goal is not otherwise met. Failure to make an adequate good faith effort to meet the DBE goal may result in payment being denied. A DBE is a firm meeting the definition of a DBE as specified in 49 CFR 26.

3. DBE and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. The Proposer, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Proposer shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted contracts. Failure by the selected consultant to carry out these requirements shall constitute a material breach of the contract, which may result in the termination of the contract or such other remedy as the recipient deems appropriate.
4. It is the proposer's responsibility to verify DBE certification at due date and time of Proposal submittal. For a list of DBEs certified by the California United Certification Program (CUCP), go to: [www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).
5. Any subcontract entered into as a result of this RFP shall contain all of the provisions of this section.

### C. Prompt Payment of Funds Withheld to Subconsultants

The City reserves the right to hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the contract work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within ten (10) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. 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 prior written approval from the City's Project Manager and/or Contracting, Administration, and Fiscal Resource Manager. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subcontract performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime Proposers and subconsultants.

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

### D. DBE Records

1. The selected consultant shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified Disadvantaged Business Enterprises (DBE). The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or

vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

2. Upon completion of the contract resulting from this proposal, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprises First-Tier Subcontractors," CEM-2402F (Exhibit 17-F in Chapter 17 of the LAPM).

#### E. DBE Certification and De-certification Status

If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify the consultant in writing with the date of de-certification. If a subconsultant becomes a certified DBE during the life of the contract, the subconsultant shall notify the consultant in writing with the date of certification. Any changes should be reported to the City and Fiscal Resource Manager within 30 days.

#### F. Materials or supplies purchased from DBEs will count towards DBE credit under the following conditions:

1. If the materials or supplies are obtained from a DBE manufacturer, 100% of the cost of the materials or supplies will count toward the DBE participation. 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.
2. If the materials or supplies purchased from a DBE regular dealer, count 60% of the cost of the materials or supplies toward DBE goals. A 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 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 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.
3. 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 contract and not an ad hoc or Contract-by-Contract basis. Packagers,

brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this section.

4. 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.

#### **G. Performance of DBE Proposers and Other DBE Subconsultants/Suppliers**

1. 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.
2. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
3. If a DBE does not perform or exercise responsibility for at least thirty percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

(See Attachment E Notice to Proposers – DBE Information, and Attachment F Good Faith Effort Form).

#### **H. Title VI of Civil Rights Act of 1964**

Proposer agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) and its implementing regulations in 49 CFR Part 21. [29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq.].

## I. Debarment

In contracts over \$25,000, Proposer is required to certify, prior to executing a contract, that neither it nor its principals have been debarred from certain federal transactions by any Federal agency and to require any subconsultants with subcontracts over \$25,000 to provide a similar certification. A copy of the required certification must be included in the proposal, Debarment and Suspension Certification) [49 CFR 29]. A publication titled, "A Listing of Parties Excluded from Federal Procurement and Non-procurement Programs" is available electronically via the internet at [epls.arnet.gov](http://epls.arnet.gov).

## J. Audit and Inspection of Records

The selected consultant shall permit the authorized representatives of the City, the Department of Transportation, and/or the Federal Highway Administration (FHWA), and the Controller General of the United States to inspect and audit all data and records of the Proposer relating to its performance under this Contract from the date of this Contract until three (3) years after the close out of the federal grant from which this Contract is financed, or four (4) years after the fiscal year of the expenditure, whichever is longer. This requirement must be passed along to subconsultants, excluding purchase orders not exceeding \$25,000. [23 USC 112(b) (2)(c), 49 CFR 18.26, 49 CFR 31 Far Regulations, 49 CFR 18]

## K. Federal Grant Requirements

Those laws, statutes, ordinances, rules, regulations and procedural requirements which are imposed on the City as a recipient of federal funds are imposed on the Proposer.

## L. Rights in Data

The Federal Government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes: (a) the copyright in any work developed under the resulting Contract; and (b) any rights of copyright to which the City or Proposer purchases ownership under the resulting Contract.

## M. State Energy Conservation Plan

Proposer shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321 *et seq.*).

## N. Clean Air and Water Pollution Act

Proposer agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations [40 CFR Part 15].

## O. Restrictions on Lobbying [31 U.S.C 1352, 49 CFR Part 19, 49 CFR Part 20]

In contracts over \$100,000, each Proposer is required to execute a certificate indicating that no federal funds will be used to lobby federal officials and to disclose lobbying activities financed with non-federal funds (see Attachment D, Non-Lobbying Certification).

## P. Pre-Award/Post-Award Audit

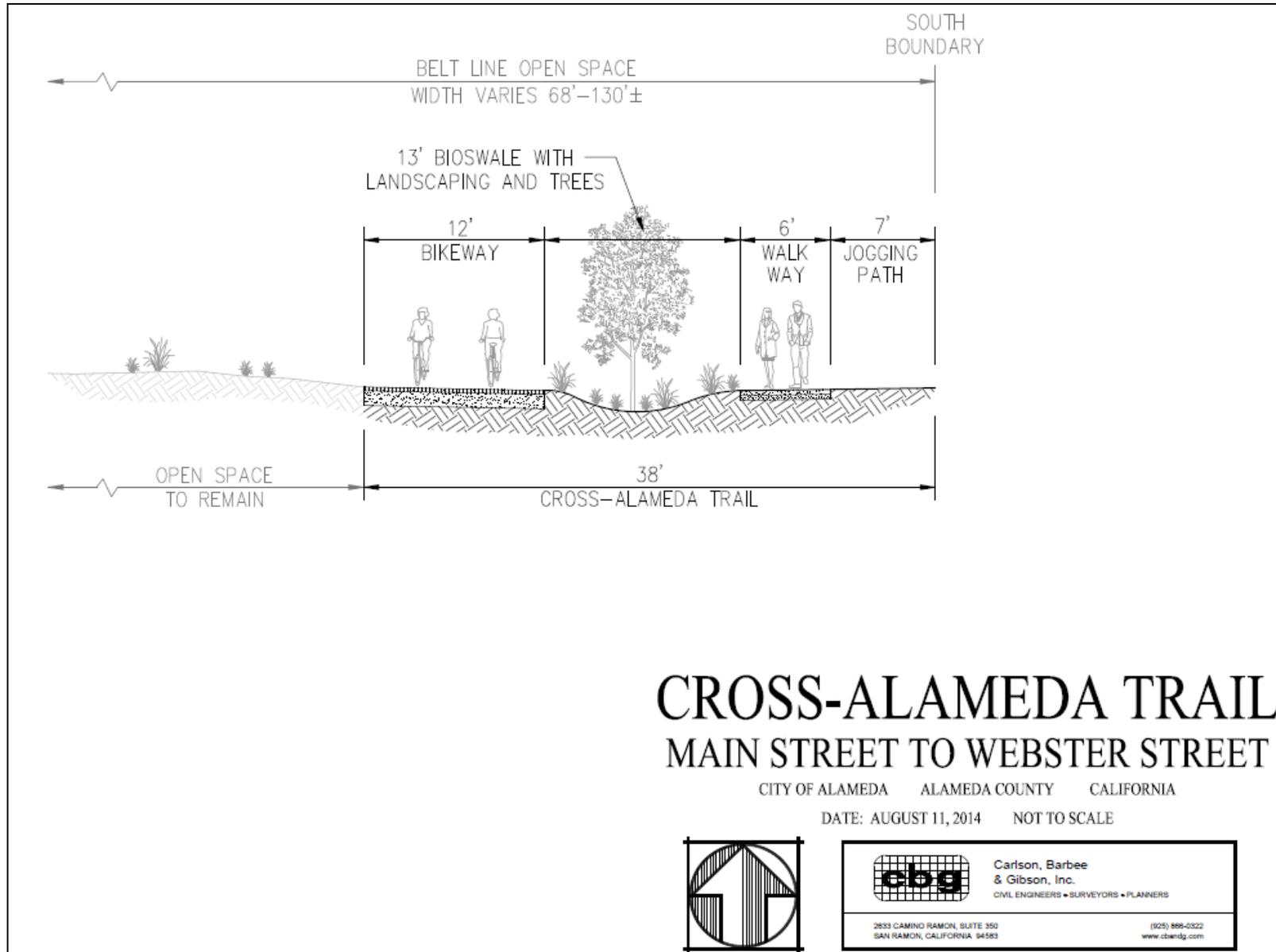
A pre/post-award audit is required for professional services contracts with state or federal-aid highway funds in the contract. The Proposer shall be aware that if a pre-award audit is to be performed, full cooperation with the Caltrans auditors is to be expected. The pre-award audit recommendations from Caltrans shall be incorporated in the contract. [49 CFR Part 18, LAPM Chapter 10]

If Caltrans permits the contract to be awarded based on a post-award audit requirement, the Proposer shall agree to the following contract language below:

CONSULTANT acknowledges that this AGREEMENT and the cost proposal are subject to a post award audit by Caltrans. After The City receives any post award audit recommendations from Caltrans, the cost proposal and/or the total compensation figure above shall be adjusted by The City to conform to the audit recommendations. CONSULTANT acknowledges and agrees that individual cost items identified in the audit report may be incorporated into this AGREEMENT at Caltrans' sole discretion. Refusal by CONSULTANT to incorporate interim audit or post award recommendations will be considered a breach of the AGREEMENT and cause for termination of the AGREEMENT.

After any post award audit recommendations are received, the cost proposal shall be adjusted by the City to conform to the audit recommendations.

# Attachment A: Proposed Cross Section



# Attachment B

## CONSULTANT AGREEMENT

THIS AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between CITY OF ALAMEDA, a municipal corporation (hereinafter referred to as "City"), and COMPANY NAME, a (California corporation, partnership, sole proprietor, individual) whose address is ADDRESS, hereinafter called the Consultant, in reference to the following:

### **RECITALS:**

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. In August 2014, City issued a RFP for design services for the Cross Alameda Trail that will run parallel to and south of Ralph Appezato Memorial Parkway, between Webster and Main Streets. City reached out to the Consultant's on the City's bidders list, interviewed qualified firms, and selected the firm that best meets the City's needs.
- C. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement.
- D. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- E. City and Consultant desire to enter into an agreement for the design of the Cross Alameda Trail, upon the terms and conditions herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM:

The term of this Agreement shall commence on the \_\_\_\_ day of \_\_\_\_\_, 2014, and shall terminate on the \_\_\_\_ day of \_\_\_\_\_, 2014, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED:

Consultant agrees to perform all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested. The Consultant acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Consultant to perform all tasks included therein.

3. COMPENSATION TO CONSULTANT:

Consultant shall be compensated for services performed pursuant to this Agreement in the amount set forth in Exhibit "A" which is attached hereto and incorporated herein by this reference. Payment shall be made by checks drawn on the treasury of the City, to be taken from Fund \_\_\_\_\_.

Payment will be made by the City in the following manner: On the first day of each month, Consultant shall submit a written estimate of the total amount of work done the previous month. Payment will be for time and direct costs and are not to exceed budget. Pricing and accounting of charges are to be according to the fee schedule in Exhibit "B" unless mutually agreed upon in writing. Extra work must be approved in writing by City prior to performance and shall be paid on a Time and Material basis using Exhibit "B" schedule.

Compensation for bid is \$\_\_\_\_\_.

4. TIME IS OF THE ESSENCE:

Consultant and City agree that time is of the essence regarding the performance of this Agreement.

5. STANDARD OF CARE:

Consultant agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City nor have any contractual relationship with City.

6. INDEPENDENT PARTIES:

Consultant hereby declares that it is engaged as an independent business and it agrees to perform its services as an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by City to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from City to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):

Consultant assumes any and all responsibility for verifying the identity and employment authorization of all of his/her employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Consultant shall indemnify, defend, and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Consultant.

8. NON-DISCRIMINATION:

Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, Consultant agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Consultant or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

Consultant certifies and agrees that he/she will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, sex, age, or condition or physical or mental handicap (as defined in 41 C.F.R. Section 60-741, et. seq.), in accordance with requirement of state or federal law. Consultant shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap in accordance with requirements of state and federal law. Such shall include, but not be limited to, the following:

A. Employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation.

B. Selection for training, including interns and apprentices.

Consultant agrees to post in conspicuous places in each of Consultant's facilities providing services hereunder, available and open to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirements of state and federal law.

Consultant shall send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of Consultant's commitments under this paragraph.

Consultant certifies and agrees that he/she will deal with his/her subcontractors, bidders, or vendors without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirement of state and federal law.

In accordance with applicable state and federal law, Consultant shall allow duly authorized county, state and federal representatives access to his/her employment records during regular business hours in order to verify compliance with the anti-discrimination provisions of this paragraph. Consultant shall provide such other information and records as such

representatives may require in order to verify compliance with the anti-discrimination provisions of this paragraph.

If the City finds that any of the provisions of this paragraph have been violated, the same shall constitute a material breach of Agreement upon which City may determine to cancel, terminate, or suspend this Agreement. City reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated. In addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity

Commission that Consultant has violated state and federal anti-discrimination laws shall constitute a finding by City that Consultant has violated the anti-discrimination provisions of this Agreement.

The parties agree that in the event Consultant violates any of the anti-discrimination provisions of this paragraph, City shall be entitled, at its option, to the sum of \$500.00 pursuant to California Civil Code Section 1671 as liquidated damages in lieu of canceling, terminating, or suspending this Agreement.

Consultant hereby agrees that he/she will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), all requirements imposed by the applicable regulations (45 C.F.R.), and all guidelines and interpretations issued pursuant thereto, to the end that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of Consultant receiving Federal Financial Assistance. In addition, Consultant shall comply with the Uniform Federal Accessibility Standards, and Contractor, Engineer, or Architect responsible for any design, construction or alteration shall certify compliance with those Standards.

Consultant's attention is directed to laws, including but not limited to:

A. CIVIL RIGHTS/EQUAL OPPORTUNITY

(1) Civil Rights Act of 1964. Under Title VII of the Civil Rights Act of 1964, no person shall, on the grounds of race, sex, religion, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(2) Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.

## B. PROGRAM ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES

This Agreement is subject to laws and regulations concerning the rights of otherwise qualified individuals with handicaps for equal participation in, and benefit from federally assisted programs and activities, including but not limited to:

(1) Americans with Disabilities Act of 1990 (ADA) (28 CFR 35). Title II, Subpart A of the Americans with Disabilities Act of 1990 applies to all publicly funded activities and programs. Consultant shall also comply with the public accommodations requirements of Title III of the ADA, as applicable.

(2) Nondiscrimination on the Basis of Handicap (24 CFR 8). These regulations, which implement Section 504 of the Rehabilitation Act of 1973, as amended, and as cited in Section 109 of the Housing and Community Development Act, apply to all federally assisted activities and programs and are implemented through the regulations at 24 CFR 8.

(3) Architectural Barrier Act of 1968. Any building or facility, excluding privately owned residential structures, designed, constructed, or altered with federal funds, shall comply with the Uniform Federal Accessibility Standards, 1984 (41 CFR 3) and the Handicapped Accessibility Requirements of the State of California Title 24. The Consultant, Engineer or Architect responsible for such design, construction or alteration shall certify compliance with the above standards.

(4) In resolving any conflict between the accessibility standards cited in paragraphs (1), (2) and (3) above, the more stringent standard shall apply.

### 9. HOLD HARMLESS:

#### Indemnification:

Consultant shall indemnify, defend, and hold harmless City, its City Council, boards, commissions, officials, employees, and volunteers ("Indemnitees") from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees ("Claims"), arising from or in any manner connected to Consultant's negligent act or omission, whether alleged or actual, regarding performance of services or work conducted or performed pursuant to this Agreement. If Claims are filed against Indemnitees which allege negligence on behalf of the Consultant, Consultant shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence is not found on the part of Consultant. However, Consultant shall not be obligated to indemnify Indemnitees from Claims arising from the sole negligence or willful misconduct of Indemnitees.

#### Indemnification For Claims for Professional Liability:

As to Claims for professional liability only, Consultant's obligation to defend Indemnitees (as set forth above) is limited to the extent to which its professional liability insurance policy will provide such defense costs.

### 10. INSURANCE:

On or before the commencement of the term of this Agreement, Consultant shall furnish City with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with paragraphs 10A, B, C, D and E.

Such certificates, which do not limit Consultant's indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda by certified mail, Attention: Risk Manager." It is agreed that Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and licensed to do insurance business in the State of California. Endorsements naming the City, its City Council, boards, commissions, officials, employees, and volunteers as additional insured shall be submitted with the insurance certificates.

A. COVERAGE:

Consultant shall maintain the following insurance coverage:

(1) Workers' Compensation:

Statutory coverage as required by the State of California.

(2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury:           \$1,000,000 each occurrence  
                                  \$2,000,000 aggregate - all other

Property Damage:      \$1,000,000 each occurrence  
                                  \$2,000,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$2,000,000 will be considered equivalent to the required minimum limits shown above.

(3) Automotive:

Comprehensive automotive liability coverage (any auto) in the following minimum limits:

Bodily Injury:           \$1,000,000 each occurrence  
Property Damage:      \$1,000,000 each occurrence  
                                  or  
Combined Single Limit:   \$2,000,000 each occurrence

(4) Professional Liability:

Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$2,000,000.

B. SUBROGATION WAIVER:

Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her insurance for recovery. Consultant hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or City with respect to the services of Consultant herein, a waiver of any right to subrogation

which any such insurer of said Consultant may acquire against City by virtue of the payment of any loss under such insurance.

C. FAILURE TO SECURE:

If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. ADDITIONAL INSURED:

City, its City Council, boards, commissions, officials, employees, and volunteers shall be named as an additional insured under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. SUFFICIENCY OF INSURANCE:

The insurance limits required by City are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

11. CONFLICT OF INTEREST:

Consultant warrants that it is not a conflict of interest for Consultant to perform the services required by this Agreement. Consultant may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. PROHIBITION AGAINST TRANSFERS:

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of City. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from City under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to City by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

13. SUBCONTRACTOR APPROVAL:

Unless prior written consent from City is obtained, only those people and subcontractors whose names and resumes are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in reasonable conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

14. PERMITS AND LICENSES:

Consultant, at his/her sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses including, but not limited to, a City Business License, that may be required in connection with the performance of services hereunder.

15. REPORTS:

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of City. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to City the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of City, and all publication rights are reserved to City.

B. All Reports prepared by Consultant may be used by City in execution or implementation of:

- (1) The original Project for which Consultant was hired;
- (2) Completion of the original Project by others;
- (3) Subsequent additions to the original project; and/or
- (4) Other City projects as appropriate.

C. Consultant shall, at such time and in such form as City may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports required to be provided by this Agreement shall be printed on recycled paper. All Reports shall be copied on both sides of the paper except for one original, which shall be single sided.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement shall be made available to any individual or organization by Consultant without prior approval by City.

16. RECORDS:

Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement.

Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of City or its designees at all proper times, and gives City the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained for a period of three (3) years after receipt of final payment.

If supplemental examination or audit of the records is necessary due to concerns raised by City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then Consultant shall reimburse City for all reasonable costs and expenses associated with the supplemental examination or audit.

17. NOTICES:

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals from Consultant to City shall be addressed to City at:

City of Alameda  
Public Works Department  
950 West Mall Square, Room 110  
Alameda, CA 94501  
Ph: (510) 747-7930 / Fax: (510) 769-6030

All notices, demands, requests, or approvals from City to Consultant shall be addressed to Consultant at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

18. TERMINATION:

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) business days after receipt by Consultant from City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, City may terminate the Agreement forthwith by giving to the Consultant written notice thereof.

City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Consultant as provided herein. Upon termination of this Agreement, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination.

19. PURCHASES OF MINED MATERIALS REQUIREMENT:

Consultant shall ensure that all purchases of mined materials such as construction aggregate, sand and gravel, crushed stone, road base, fill materials, and any other mineral materials must originate from a surface mining operation identified on the AB3098 List per the Surface Mining and Reclamation Act of 1975 (SMARA).

Within five days of award of contract, Consultant shall submit a report to City which lists the intended suppliers for the above materials and demonstrates that the suppliers are in compliance with the SMARA requirements. The AB3098 List is maintained by the Department of Conservation's Office of Mine Reclamation (OMR) and can be viewed at: [www.conservation.ca.gov/OMR/ab\\_3098\\_list/index.htm](http://www.conservation.ca.gov/OMR/ab_3098_list/index.htm). Note that the list changes periodically and should be reviewed accordingly.

20. COMPLIANCES:

Consultant shall comply with all applicable state and federal laws and all ordinances, rules and regulations enacted or issued by City.

21. CONFLICT OF LAW:

This Agreement shall be interpreted under, and enforced by the laws of the State of California excepting any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.)

Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

22. ADVERTISEMENT:

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from City to do otherwise.

23. WAIVER:

A waiver by City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. INTEGRATED CONTRACT:

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Consultant.

25. INSERTED PROVISIONS:

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

26. CAPTIONS:

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed on the day and year first above written.

CONSULTANT  
(Type of Corporation)

CITY OF ALAMEDA  
A Municipal Corporation

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
John A. Russo  
City Manager

RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Robert G. Haun  
Public Works Director

APPROVED AS TO FORM:  
City Attorney

\_\_\_\_\_  
Andrico Penick  
Assistant City Attorney

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 20 10 10 93

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED - OWNERS, LESSEES or CONTRACTORS FORM B

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SCHEDULE

Name of Person or Organization:

City of Alameda  
Public Works Department  
Alameda Point, Building 1  
950 West Mall Square, Room 110  
Alameda, CA 94501-7558



(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

**REF:** \_\_\_\_\_

**The City of Alameda, its City Council, boards and commissions, officers, employees & volunteers are additional insured for work done on their behalf by the named insured.**

PRIMARY INSURANCE:

IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS INSURANCE.

SEVERABILITY OF INTEREST:

IT IS AGREED THAT EXCEPT WITH RESPECT TO THE LIMIT OF INSURANCE, THIS COVERAGE SHALL APPLY AS IF EACH ADDITIONAL INSURED WERE THE ONLY INSURED AND SEPARATELY TO EACH INSURED AGAINST WHOM CLAIM IS MADE OR SUIT IS BROUGHT.

WAIVER OF SUBROGATION:

IT IS UNDERSTOOD AND AGREED THAT THE COMPANY WAIVES THE RIGHT OF SUBROGATION AGAINST THE ABOVE ADDITIONAL INSURED (S), BUT ONLY AS RESPECTS THE JOB OR PREMISES DESCRIBED IN THE CERTIFICATE ATTACHED HERETO.

NOTICE OF CANCELLATION:

IT IS UNDERSTOOD AND AGREED THAT IN THE EVENT OF CANCELLATION OF THE POLICY FOR ANY REASON OTHER THAN NON-PAYMENT OF PREMIUM, 30 DAYS WRITTEN NOTICE WILL BE SENT TO THE CERTIFICATE HOLDER BY MAIL. IN THE EVENT THE POLICY IS CANCELED FOR NON-PAYMENT OF PREMIUM, 10 DAYS WRITTEN NOTICE WILL BE SENT TO THE ABOVE.



**EXHIBIT 10-J STANDARD CONTRACT PROVISIONS FOR SUBCONSULTANT/DBE PARTICIPATION****1. Subconsultants**

- A. Nothing contained in this Contract or otherwise, shall create any contractual relation between the Agency and any subconsultants, and no subcontract shall relieve the Consultant of his/her responsibilities and obligations hereunder. The Consultant agrees to be as fully responsible to the Agency for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Consultant. The Consultant's obligation to pay its subconsultants is an independent obligation from the Agency's obligation to make payments to the Consultant.
- B. Any subcontract in excess of \$25,000, entered into as a result of this Contract, shall contain all the provisions stipulated in this Contract to be applicable to subconsultants.
- C. Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to the Consultant by the Agency.
- D. Any substitution of subconsultants must be approved in writing by the Agency's Contract Administrator in advance of assigning work to a substitute subconsultant.

**2. 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". Proposers who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. If the contract has a DBE goal, the Consultant must meet the goal by committing DBE participation or document a good faith effort to meet the goal. If a DBE subconsultant is unable to perform, the Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met. A DBE is a firm meeting the definition of a DBE as specified in 49 CFR.
- 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. The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the local agency deems appropriate.
- D. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
- E. A DBE may be terminated only with prior written approval from the local agency and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting local agency consent for the termination, the prime consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

**3. Performance of DBE Consultant and other DBE Subconsultants/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, Contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Contract with its own work force, or the DBE subcontracts a greater portion of the work of the Contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

**4. Prompt Payment of Funds Withheld to Subconsultants**

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.  
*(Local agency to include either B, C, or D below; delete the other two.)*
- B. No retainage will be withheld by the Agency from progress payments due the prime Consultant. Retainage by the prime Consultant or subconsultants is prohibited, and no retainage will be held by the prime Consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime Consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime Consultants and subconsultants.
- C. No retainage will be held by the Agency from progress payments due the prime Consultant. Any retainage held by the prime Consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime Consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

- D. The Agency shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. 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 the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

#### **5. DBE Records**

- A. The Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- B. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants," CEM-2402F (Exhibit 17-F, Chapter 17, of the LAPM), certified correct by the Consultant or the Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 25 percent of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

#### **6. DBE Certification and Decertification Status**

If a DBE subconsultant is decertified during the life of the Contract, the decertified subconsultant shall notify the Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify the Consultant in writing with the date of certification. Any changes should be reported to the Agency's Contract Administrator within 30 days.

ATTACHMENT C

**EXHIBIT 10-F CERTIFICATION OF CONSULTANT, COMMISSIONS & FEES**

I HEREBY CERTIFY that I am the \_\_\_\_\_, and duly authorized representative of the firm of \_\_\_\_\_, whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this contract.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this contract involving participation of federal-aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

**Distribution:** 1) Local Agency Project File (Original & Contract)  
2) DLAE (with contract copy)

## ATTACHMENT D

### EXHIBIT 10-P NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies by signing and submitting this proposal/bid to the best of his or her knowledge and belief that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

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

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

ATTACHMENT E

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 15 %

~~OR~~

~~The Agency has not established a goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract.~~

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

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.

4. DBE PARTICIPATION GENERAL INFORMATION

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).

- B. A certified DBE may participate as a prime consultant, 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.

## 5. RESOURCES

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

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

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

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the

purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

**EXHIBIT 15-H DBE INFORMATION —GOOD FAITH EFFORTS**

**DBE INFORMATION - GOOD FAITH EFFORTS**

Federal-aid Project No. \_\_\_\_\_ Bid Opening Date \_\_\_\_\_

The \_\_\_\_\_ (City/County of) \_\_\_\_\_ established a Disadvantaged Business Enterprise (DBE) goal of \_\_\_\_\_% for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the “Local Agency Bidder DBE Commitment” form indicates that the bidder has met the DBE goal. This will protect the bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the “Local Agency Bidder DBE Commitment” form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled “Submission of DBE Commitment” of the Special Provisions:

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

Publications	Dates of Advertisement

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

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

- C. The items of work which the bidder made available to DBE firms including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

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

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

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

---

---

---

---

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

---

---

---

---

- E. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs:

---

---

---

---

F. Efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

---

---

---

---

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

Name of Agency/Organization	Method/Date of Contact	Results
-----------------------------	------------------------	---------

---

---

H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

---

---

**NOTE:** USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.



## INSTRUCTIONS - CONSULTANT PROPOSAL DBE COMMITMENT

### Consultant Section

*The Consultant shall:*

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
4. **Consultant Name** - Enter the consultant's firm name.
5. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I *Notice to Proposers DBE Information* form. See LAPM Chapter 10.
6. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
7. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
8. **DBE Cert. Number** - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
9. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
10. **Total % Claimed** – Enter the total DBE participation claimed. If the Total % Claimed is less than item "6. Contract DBE Goal", an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H *DBE Information - Good Faith Efforts* of the LAPM).
11. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
12. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
13. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
14. **Date** - Enter the date this section of the form is signed by the preparer.
15. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

### Local Agency Section:

*The Local Agency representative shall:*

16. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
17. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
18. **Contract Execution Date** - Enter date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
19. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
20. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
21. **Date** - Enter the date the Local Agency Representative signs the form.
22. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
23. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

## ATTACHMENT H

### EXHIBIT 10-O2 CONSULTANT CONTRACT DBE INFORMATION

(Inclusive of all DBEs listed at contract award. Refer to instructions on the reverse side of this form)

<b>Consultant to Complete this Section</b>			
1. Local Agency Name: _____			
2. Project Location: _____			
3. Project Description: _____			
4. Total Contract Award Amount: \$ _____			
5. Consultant Name: _____			
6. Contract DBE Goal %: _____			
7. Total Dollar Amount for <u>all</u> Subconsultants: \$ _____			
8. Total Number of <u>all</u> Subconsultants: _____			
<b>Award DBE/DBE Information</b>			
9. Description of Services to be Provided	10. DBE/DBE Firm Contact Information	11. DBE Cert. Number	12. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>		13. Total Dollars Claimed	12. DBE Dollar Amount
20. Local Agency Contract Number: _____		\$ _____	_____ %
21. Federal-aid Project Number: _____			
22. Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			
23. Local Agency Representative Name (Print) _____			
24. Local Agency Representative Signature _____	25. Date _____		
26. Local Agency Representative Title _____		15. Preparer's Signature _____	
27. (Area Code) Tel. No. _____		16. Preparer's Name (Print) _____	
<b>Caltrans to Complete this Section</b>		17. Preparer's Title	19. (Area Code) Tel. No.
Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:		18. Date _____	
28. DLAE Name (Print) _____	29. DLAE Signature _____	30. Date _____	

**Distribution:** (1) Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.  
 (2) Copy – Include in award package sent to Caltrans DLAE  
 (3) Original – Local agency files

## INSTRUCTIONS - CONSULTANT CONTRACT AWARD DBE INFORMATION

### Consultant Section

*The Consultant shall:*

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
4. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
5. **Consultant Name** - Enter the consultant's firm name.
6. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I *Notice to Proposers DBE Information* form. See LAPM Chapter 10.
7. **Total Dollar Amount for all Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
8. **Total number of all subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
9. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
10. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
11. **DBE Cert. Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
12. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE, and include DBEs that are not identified as subconsultants on the Exhibit 10-O1 *Consultant Proposal DBE Commitment* form. See LAPM Chapter 9 for how to count full/partial participation.
13. **Total Dollars Claimed** – Enter the total dollar amounts for column 13.
14. **Total % Claimed** – Enter the total DBE participation claimed for column 13. SUM = (item "14. Total Participation Dollars Claimed" divided by item "4. Total Contract Award Amount"). If the Total % Claimed is less than item "6. Contract DBE Goal", an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H *DBE Information - Good Faith Efforts* of the LAPM).
15. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
16. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
17. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
18. **Date** - Enter the date this section of the form is signed by the preparer.
19. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

### Local Agency Section:

*The Local Agency representative shall:*

20. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
21. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
22. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
23. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
24. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
25. **Date** - Enter the date the Local Agency Representative signs the form.
26. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
27. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

### Caltrans Section:

*Caltrans District Local Assistance Engineer (DLAE) shall:*

28. **DLAE Name (Print)** – Clearly enter the name of the DLAE.
29. **DLAE Signature** – DLAE must sign this section of the form to certify that it has been reviewed for completeness.
30. **Date** - Enter the date that the DLAE signs this section the form.

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #1)

**ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS**  
(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Consultant \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
(Project Manager)	_____	_____	\$ _____	\$ _____
(Sr Civil Engineer)	_____	_____	\$ _____	\$ _____
(Envir. Scientist)	_____	_____	\$ _____	\$ _____
(Jr. Highway Engr)	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____

**LABOR COSTS**

- a) Subtotal Direct Labor Costs \$ \_\_\_\_\_
- b) Anticipated Salary Increases (see page 2 for sample) \$ \_\_\_\_\_
- c) **TOTAL DIRECT LABOR COSTS** [(a) + (b)] \$ \_\_\_\_\_

**FRINGE BENEFITS**

- d) Fringe Benefits (Rate: \_\_\_\_\_%) e) **TOTAL FRINGE BENEFITS** [(c) x (d)] \$ \_\_\_\_\_

**INDIRECT COSTS**

- f) Overhead (Rate: \_\_\_\_\_%) g) Overhead [(c) x (f)] \$ \_\_\_\_\_
- h) General and Administrative (Rate: \_\_\_\_\_%) i) Gen & Admin [(c) x (h)] \$ \_\_\_\_\_
- j) **TOTAL INDIRECT COSTS** [(g) + (i)] \$ \_\_\_\_\_

**FIXED FEE (Profit)**

- n) (Rate: \_\_\_\_\_%) k) **TOTAL PROFIT** [(c) + (e) + (j)] x (q) \$ \_\_\_\_\_

**OTHER DIRECT COSTS (ODC)**

- l) Travel/Mileage Costs (supported by consultant actual costs) \$ \_\_\_\_\_
- m) Equipment Rental and Supplies (itemize) \$ \_\_\_\_\_
- n) Permit Fees (itemize), Plan sheets (each), Test Holes (each), etc. \$ \_\_\_\_\_
- o) Subconsultant Costs (attach detailed cost proposal in same format as prime consultant estimate for each subconsultant) \$ \_\_\_\_\_
- p) **TOTAL OTHER DIRECT COSTS** [(l) + (m) + (n) + (o)] \$ \_\_\_\_\_

**TOTAL COST** [(c) + (e) + (j) + (k) + (p)] \$ \_\_\_\_\_

NOTES:

- Employees subject to prevailing wage requirements to be marked with an \*.
- ODC items should be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered “tools of the trade” are not reimbursable.
- ODC items should be consistently billed directly to all clients, not just when client will pay for them as a direct cost.
- ODC items when incurred for the same purpose, in like circumstances, should not be included in any indirect cost pool or in overhead rate.
- Travel related costs should be pre-approved by the contracting agency. The rates should not exceed the State Department of Personnel Administration (DPA) requirements.

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #1)

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS  
(SAMPLE CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

Consultant \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

**1. Calculate average hourly rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)**

Direct Labor Subtotal per Cost Proposal		Total Hours per Cost Proposal		Avg Hourly Rate	<b>5 Year Contract Duration</b>
\$250,000.00	/	5000	=	\$50.00	Year 1 Avg Hourly Rate

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

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

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

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

**4. Calculate Total Costs including Escalation (multiply average hourly rate by the number of hours)**

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$50.00	*	1000	=	\$50,000.00	Estimated Hours Year 1
Year 2	\$51.00	*	2000	=	\$102,000.00	Estimated Hours Year 2
Year 3	\$52.02	*	750	=	\$39,015.00	Estimated Hours Year 3
Year 4	\$53.06	*	750	=	\$39,795.30	Estimated Hours Year 4
Year 5	\$54.12	*	500	=	\$27,060.80	Estimated Hours Year 5
Total Direct Labor Cost with Escalation				=	\$257,871.10	
Direct Labor Subtotal before escalation				=	\$250,000.00	
Estimated total of Direct Labor Salary Increase				=	<b>\$7,871.10</b>	Transfer to Page 1

NOTES:

- This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
- An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology.)
- This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #2)

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

Consultant or Subconsultant \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

Fringe Benefit % + Overhead % + General Administration % = Combined Indirect Cost Rate (ICR) %  
(= 0% if Included in OH) (= 0% if Included in OH)

FEE % = \_\_\_\_\_

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup>			Effective date of hourly rate		Actual or Avg. hourly rate <sup>3</sup>	% or \$ increase	Hourly range - for classifications only
	Straight	OT(1.5x)	OT(2x)	From	To			
John Doe – Project Manager	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		Not Applicable
Civil Engineer II	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0 %	
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0 %	
Sue Jones – Construction Engineer/Inspector	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		Not Applicable
Engineer I	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0 %	
Buddy Black - Claims Engineer	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		Not Applicable
Engineer III	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0 %	
Land Surveyor *	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0 %	\$00 - \$00
Technician	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0 %	\$00 - \$00

- Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.
- Billing rate = actual hourly rate \* (1+ ICR) \* (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.
- For named employees enter the actual hourly rate. For classifications only, enter the average hourly rate for that classification.

Note:

- Denote all employees subject to prevailing wage with an asterisks (\*)
- For “Other Direct Cost” listing, see page 2 of this Exhibit

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #2)

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

Consultant or Subconsultant \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

SCHEDULE OF OTHER DIRECT COST ITEMS											
PRIME CONSULTANT				SUBCONSULTANT #1				SUBCONSULTANT #2			
DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL
Special Tooling				Special Tooling				Special Tooling			
A.				A.				A.			
B.				B.				B.			
C.				C.				C.			
Travel				Travel				Travel			
A.				A.				A.			
B.				B.				B.			
C.				C.				C.			
<b>PRIME TOTAL ODCs =</b>				<b>SUBCONSULTANT #1 ODCs =</b>				<b>SUBCONSULTANT #2 ODCs =</b>			

IMPORTANT NOTES:

- List direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentations.
- Proposed items should be consistently billed directly to all clients (Commercial entities, Federal Govt., State Govt., and Local Govt. Agency), and not just when the client will pay for them as a direct cost.
- 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. The rates should not exceed the State Department of Personnel Administration (DPA) requirements.
- If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
- If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is their standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #3)

Page 1 of 1

COST PER UNIT OF WORK CONTRACTS  
(GEOTECHNICAL AND MATERIAL TESTING)

Consultant \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

Page \_\_\_ of \_\_\_

**Unit/Item of Work:**

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

DIRECT LABOR	Hours	Hourly Billing Rate (\$)	Total (\$)
Professional (Classification)	_____	_____	_____
Sub-professional/Technical*	_____	_____	_____
EQUIPMENT (with Operator)	_____	_____	_____
<b>OTHER DIRECT COST</b>			
Mobilization/De-mobilization			_____
Supplies/Consumables (Itemize)			_____
Travel/Mileage			_____
Report (if applicable)			_____
<b>TOTAL COST PER UNIT OF WORK</b>			_____

Notes:

- Denote labor subject to prevailing wage with asterisk (\*).
- Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- Hourly billing rates include net fee/profit.
- Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- ODC items should be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered “tools of the trade” are not reimbursable.
- Travel related costs should be pre-approved by the contracting agency. The rates should not exceed the State Department of Personnel Administration (DPA) requirements.

**EXHIBIT 10-K CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL  
MANAGEMENT SYSTEM**

*(Note: If requesting to utilize the Safe Harbor Indirect Cost Rate submit Attachment 1 of  
DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts found at  
[http://www.dot.ca.gov/hq/LocalPrograms/DLA\\_OB/DLA\\_OB.htm](http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/DLA_OB.htm) in lieu of this form.)*

**Certification of Final Indirect Costs:**

Consultant Firm Name: \_\_\_\_\_

Indirect Cost Rate: \_\_\_\_\_ Date of Proposal Preparation (mm/dd/yyyy): \_\_\_\_\_

Fiscal Period Covered for Indirect Cost Rate Developed (mm/dd/yyyy to mm/dd/yyyy): \_\_\_\_\_

Contract Number: \_\_\_\_\_ Project Number: \_\_\_\_\_

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1. All costs included in this proposal to establish final indirect cost rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR), Part 31.
2. This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR, Part 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and indirect cost rates have been disclosed as of the date of proposal preparation noted above.

**Certification of Financial Management System:**

I, the undersigned, certify to the best of my knowledge and belief that our financial management system meets the standards for financial reporting, accounting records, internal and budget control as set forth in the FAR of Title 49, CFR, Part 18.20 to the extent applicable to Consultant.

**Certification of Dollar Amount for all A&E contracts:**

I, the undersigned, certify that the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to this firm within the last three (3) calendar years for all State DOT and Local Agencies is \$\_\_\_\_\_ and the number of States in which the firm does business is \_\_\_\_\_.

**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 reasonable, allowable and allocable to the contract in accordance with the cost principles of the FAR of Title 48, CFR, Part 31. Allowable direct costs to a Government contract shall be:

1. Compliant with Generally Accepted Accounting Principles (GAAP) and standards promulgated by the Cost Accounting Standards Board (when applicable).

Consultant Certification of Contract Costs and Financial Management System

- 2. Compliant with the terms of the contract and is incurred specifically for the contract.
- 3. Not prohibited by 23 CFR, Chapter 1, Part 172 –Administration of Engineering and Design Related Service Contracts to the extent requirements are applicable to Consultant.

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files.

**Subconsultants (if applicable)**

Proposed Contract Amount (or amount not to exceed if on-call contract): \$ \_\_\_\_\_

**Prime Consultants (if applicable)**

Proposed **Total** Contract Amount (or amount not to exceed if on-call contract): \$ \_\_\_\_\_

Prime, list all subconsultants and proposed subcontract dollar amounts (attach additional page if necessary):

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

\* Consultant Certification Signature: \_\_\_\_\_

Consultant Certifying (Print Name and Title):

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Consultant Contact Information:

Email: \_\_\_\_\_

Phone number: \_\_\_\_\_

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

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

Note: *Per 23 U.S.C. 112(b)(2)(B), Subconsultants must comply with the FAR Cost Principles contained in 48 CFR, Part 31. 23 CFR Part 172.3 Definitions state: Consultant means the individual or firm providing engineering and design related services as a party to the contract. Therefore, subconsultants as parties of a contract must complete a certification and send originals to A&I and keep copies in Local Agency Project Files.*

**Distribution:** 1) Original to Caltrans Audits and Investigations  
2) Retained in Local Agency Project Files