

CITY OF CHICO - SERVICE PROVIDER AGREEMENT

DOKKEN ENGINEERING

Provider

ON-CALL SERVICES FOR STRUCTURAL ENGINEERING

Project Title

VARIOUS

Budget Account Number

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THIS SERVICE PROVIDER AGREEMENT ("Agreement") is entered into on August 11, 2021, between the City of Chico, a municipal corporation under the laws of the State of California ("City"), and Dokken Engineering, a California corporation, ("Provider").

SECTION 1 - DESCRIPTION OF SERVICES

City desires to hire Provider to perform those certain services described in Exhibit A, entitled "Description of Services."

SECTION 2 - SCOPE OF SERVICES

Provider shall perform and complete services as set forth more particularly in Exhibit B, entitled "Scope of Services" and the Attachments, created by City as services are to be rendered by Provider and numbered sequentially, to Exhibit B.

SECTION 3 - COMPENSATION

Provider shall be compensated for services provided to City pursuant to this Agreement periodically in the amounts, manner, and in accordance with the payment schedule as set forth in Exhibit C, entitled "Compensation." Amounts due to Provider from City for services rendered shall be evidenced by the submission to City by Provider of an invoice, prepared in a form satisfactory to City, setting forth the amount of compensation due for the period covered by it. Each such invoice shall be forwarded to City so as to reach City on or before the 15th day of the month next following the month or months, or other applicable period, for which services invoiced were provided. All such invoices shall be in full accord with any and all applicable provisions of this Agreement. City will make payment on each such invoice within 30 days of receipt of it. However, if Provider submits an invoice which is incorrect, incomplete, or not in accord with the provisions of this Agreement, City shall not be obligated to process any payment to Provider until a correct and complying invoice has been submitted.

SECTION 4 - TERM; TERMINATION

The initial term of this Agreement shall be for a period of three years, commencing on the date of contract execution by all parties, and terminating three years thereafter. The term of this Agreement may be extended at the option of City for two successive one-year periods. City may, in its sole discretion, terminate this Agreement at any time and for any reason whatsoever by giving at least 10 days prior written notice of such termination to Provider. In this latter event, Provider shall be entitled to compensation for all services performed for City to the date of

such termination.

SECTION 5 - RESPONSIBILITY OF PROVIDER

By executing this Agreement, Provider warrants to City that Provider possesses, or will arrange to secure from others, all of the necessary capabilities, experience, resources and facilities necessary to provide to City the services under this Agreement. In procuring the services of others to assist Provider in performing the services set forth in Exhibit B, Provider shall not employ or otherwise obtain the services of any person or entity known to Provider or City to have, or be likely to develop during the term of this Agreement, an interest that is personally, or professionally, or financially adverse to any interest of City. Provider will follow the current, generally accepted professional practices in performing tests and procedures, making findings, rendering opinions, preparing factual presentations and providing professional advice and recommendations regarding services rendered under this Agreement.

SECTION 6 - RESPONSIBILITY OF CITY

To the extent appropriate in relation to services contemplated by this Agreement, City shall:

- a. Assist Provider by placing at Provider's disposal all available information pertinent to services;
- b. Designate in writing a person to act as City's representative with respect to services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to services; and
- c. Give prompt written notice to Provider whenever City observes or otherwise becomes aware of any deficiency in services.

SECTION 7 - INDEMNIFICATION

To the fullest extent permitted by law, Provider shall defend (with counsel of City's choosing), indemnify and hold City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Provider, its officials, officers, employees, subcontractors, consultants or agents in connection with the services provided for by this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Provider shall reimburse City and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

Provider's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement. Provider's

obligation to indemnify shall not be restricted to insurance proceeds, if any, received by City, its directors, officials, officers, employees, agents, or volunteers. Provider's obligation to indemnify, defend and hold harmless the City, its officers, employees and agents for claims involving "Professional Liability" claims involving acts, errors or omissions in the rendering of professional services (as defined in Civil Code section 2782.8(2), specifically, architects (Business & Professions Code section 5500), landscape architects (Business & Professions Code section 5615), professional engineers (Business & Professions Code section 6701), and professional land surveyors (Business & Professions Code section 8701)), shall be limited to the extent caused by Provider's negligent acts, errors or omissions.

SECTION 8 - INSURANCE

Any requirements by City that Provider carry general liability or any other type of insurance in connection with the services to be performed by Provider pursuant to this Agreement shall be as set forth in Exhibit D, entitled "Insurance Provisions."

SECTION 9 - CITY ACCESS TO PROVIDER'S RECORDS

Provider shall maintain all books, records, documents, accounting ledgers, and similar materials relating to services performed for City under this Agreement on file for at least four (4) years following the date of final payment to Provider by City. Any duly authorized representative(s) of City shall have access to such records for the purpose of inspection, audit, and copying at reasonable times, during Provider's usual and customary business hours. Provider shall provide proper facilities to City's representative(s) for access and inspection. Provider shall be entitled to reasonable compensation for time and expenses related to such access and inspection activities, which shall be considered to be an additional service to City, falling under the provisions of Section 3, above.

SECTION 10 - INDEPENDENT CONTRACTOR

City and Provider agree that the relationship created by this Agreement is that of an employer-independent contractor. Provider shall be solely responsible for the conduct and control of services performed under this Agreement. Provider shall be free to render services to others during the term of this Agreement, so long as such activities do not interfere with or diminish Provider's ability to fulfill the obligations to City established herein.

SECTION 11 - OWNERSHIP OF DOCUMENTS

Title to all documents, drawings, specifications, and the like with respect to services performed under this Agreement shall vest with City at such time as City has compensated Provider, as provided herein, for the services rendered by Provider in connection with which they were prepared.

SECTION 12 - CONFLICT OF INTEREST CODE APPLICABILITY

If City's City Manager has determined that one or several of Provider's Principal(s) or Project Manager(s) are subject to the City's Conflict of Interest Code under Chico Municipal Code Section 2R.04.180, then each such person will be required to comply with the provisions of said Code in connection with services rendered to City under this Agreement. In such event, City's requirements shall be set forth in Exhibit E, entitled "Conflict of Interest Provisions."

SECTION 13 - SUBCONTRACTING SERVICES

Provider shall be entitled, to the extent determined appropriate by Provider, to subcontract any portion of services to be performed under this Agreement. Provider shall be responsible to City for the actions of persons and firms performing subcontracted services. The subcontracting of services by Provider shall not relieve Provider, in any manner, of the obligations and requirements imposed upon Provider by this Agreement.

SECTION 14 - ASSIGNMENT

This Agreement is binding on the heirs, successors, and assigns of the parties hereto and shall not be assigned by either City or Provider without the prior written consent of the other.

SECTION 15 - AMENDMENTS

This Agreement represents the entire understanding of City and Provider as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in it. This Agreement may not be modified or altered except by amendment in writing signed by both parties. City may at any time, upon a minimum of 10 days written notice, amend the scope of services to be provided under this Agreement. Provider shall, upon receipt of said notice, determine the impact on both time and compensation of such amendment and notify City in writing. Upon agreement between City and Provider as to the extent of said impacts to time and compensation, this Agreement shall be amended. Execution of the amendment by City and Provider shall constitute Provider's notice to proceed with the amended scope.

SECTION 16 - COMPLIANCE WITH LAWS, RULES, AND REGULATIONS

All services performed by Provider pursuant to this Agreement shall be performed in accordance and full compliance with all applicable Federal, State, or City statutes, and any rules or regulations promulgated thereunder.

SECTION 17 - SEVERABILITY

This Agreement shall be administered and interpreted under the laws of the State of California. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

SECTION 18 - NOTICE

Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service or, alternatively, by personal delivery or overnight courier service addressed to the parties as follows:

To City: City Manager
 City of Chico
 P. O. Box 3420
 Chico, CA 95927-3420

To Provider: Dokken Engineering
110 Blue Ravine Road, Suite 200
Folsom, CA 95630

SECTION 19 - EXHIBITS INCORPORATED

All Exhibits referred and attached to this Agreement are hereby incorporated by this reference.

SECTION 20 - SPECIAL PROVISIONS

This Agreement shall include all special provisions, if any, as are set forth on Exhibit F, entitled "Special Provisions."

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.


CITY:



Mark Orme, City Manager*

*Authorized pursuant to Section 3.08.060
of the Chico Municipal Code

PROVIDER:

By: 
JOHN A Klemunes JR
Title president

APPROVED AS TO FORM:



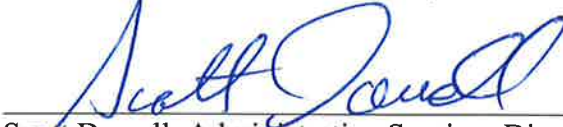
Vincent C. Ewing, City Attorney*

*Pursuant to The Charter of the
City of Chico, Section 906(D)

APPROVED AS TO CONTENT:


Brendan Ottoboni, Public Works Director,
Engineering

REVIEWED AS TO CONTENT:



Scott Dowell, Administrative Services Director*

*Reviewed by Finance and Information Systems

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DOKKEN ENGINEERING

Provider

ON-CALL SERVICES FOR STRUCTURAL ENGINEERING

Project Title

VARIOUS

Budget Account Number

EXHIBIT A

DESCRIPTION OF SERVICES

Upon request by the City and under City direction, the Provider shall provide On-call Structural Engineering services for a variety of local, state, and federally funded projects in accordance with applicable local, state and federal regulations. Typical projects requiring Structural Engineering services may include new construction, or maintenance and improvements of existing public infrastructure, including but not limited to roadways, bridges, bikeways, parks. As Capital Improvement Program (CIP) or private development review projects become available for assignment, project specific "task orders" called Attachments shall be issued.

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EXHIBIT B

SCOPE OF SERVICES - BASIC; COMPLETION SCHEDULE

Scope of Services - Basic

The Provider shall perform structural supporting services requested within this Agreement which may include, but are not limited to:

- Bridge Design Services which include new bridges, rehabilitation and replacement of existing bridges, as well as the required improvements to the surrounding area, such as sidewalks, guardrails, bike and pedestrian pathways, ADA requirements and intersection signalizations.
- Plans, Special Provisions & Estimates (PS&E): Provider shall be required that all projects are designed to Caltrans standards unless local standards supersede.
- Technical Studies for Structural Impacts required to analyze structural impacts of proposed improvements or modifications that accompany Capital Improvement or Private Development projects.
- Assess Scour and provide studies for all bridges or facilities which intrude into streams. Hydraulic studies shall be performed on these bridges in addition to scour analysis
- Provide an independent set of calculations prepared in accordance with Caltrans guidelines. Project plans shall be thoroughly reviewed at each milestone to create a continuous flow of design checks.

- Seismic Analysis: Provider shall design all bridge and wall projects to the latest seismic standards.
- Bridge Load Rating: As required for all new, widened, or rehabilitated bridges where the rehabilitation alters the load carrying capacity of the structure.
- Prepare Structural Assessment Reports to determine a historic structure's condition, including evaluation of foundation conditions, and providing recommendations for corrective treatments, as applicable.
- Prepare a Life Cycle Cost Analysis for every project designed by Provider.
- Structural Deck Repair: Provider shall provide the City with most cost-effective treatment within the constraints of budget, work force, traffic control and weather for the repair of deteriorated decks.
- Retrofit & Strengthening: Provider's team shall understand the requirements and standards in place and shall help the City bring any bridge up to local, state, and federal standards without full replacement. If replacement is deemed necessary, Provider shall support replacement decisions and assist the City, as needed.
- Bridge Inspection Services: Provider shall be available to perform new and follow-up inspections and assessments as needed for the City.
- Bridge Components: Consultation and additional design as needed for retaining walls, culvert & headwall repairs, railing replacement, and other minor structures.

Structural design shall comply with City approved plans and specifications and/or issued encroachment permits/plans, City Standard Details and Specifications, City Quality Assurance Program Caltrans Standard Specifications or as otherwise specified.

Completion Schedule

The Provider shall complete all services in accordance with the Attachments which set forth the specific services and completion schedules.

ATTACHMENT EXAMPLE

CITY OF CHICO - SERVICE PROVIDER AGREEMENT

PROVIDER

Project Title/Budget Account No.

ATTACHMENT # ____ TO EXHIBIT B
SERVICE PROVIDER AGREEMENT DATED _____
(Agreement Term: *Beginning Date* through *Ending Date*)

SCOPE OF SERVICES - BASIC; NOTICE TO PROCEED; COMPLETION SCHEDULE

Scope of Services - Basic

The Provider shall perform the following Services:

City Responsibilities - Basic

Compensation

Compensation shall not exceed \$ _____ and shall be billed according to the rates set forth on Exhibit C of the Agreement. Compensation shall be based upon actual monthly invoices received and shall be paid in accordance with the completion of each task, as follows (*if applicable*):

Notice to Proceed

This Attachment shall constitute the City's Notice to Proceed to the Provider.

Completion Schedule

The Provider shall complete all Services within XX days/weeks/months of receipt of the City's Notice to Proceed.

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EXHIBIT C

COMPENSATION

Total compensation for the Agreement shall not exceed \$500,000.00. Compensation for services shall be in accordance with the specified rates of compensation, shown on the following pages:

EXHIBIT 10-H2 COST PROPOSAL
SPECIFIC RATE OF COMPENSATION (Use for On-Call or As-Needed Contracts)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-Ups are Not Allowed

Consultant Dokken Engineering ☒ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant
 Project No. On-Call Structural Engineering Services - City of Chico Contract No. RFQ No. 2021-02 Participation Amount \$ Date 17-Jun-21

For Combined Rate	Fringe Benefit % + General & Administrative %	=	165.65%	Combined ICR%
For Home Office Rate	Fringe Benefit % + General & Administrative %	=		Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=		Field Office ICR%
	Fee	=	10.00%	

BILLING INFORMATION**CALCULATION INFORMATION**

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Average Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From	To			
Rick Liptak, PE* Principal in Charge Senior Engineer Exempt	\$277.60	N/A	N/A	1/1/2021	12/31/2021	\$95.00		Not Applicable
	\$285.93	N/A	N/A	1/1/2022	12/31/2022	\$97.85	3.00%	
	\$294.51	N/A	N/A	1/1/2023	12/31/2023	\$100.79	3.00%	
	\$303.35	N/A	N/A	1/1/2024	12/31/2024	\$103.81	3.00%	
	\$312.45	N/A	N/A	1/1/2025	12/31/2025	\$106.92	3.00%	
Rob Burns, PE, SE* Project Manager Senior Engineer Exempt	\$219.16	N/A	N/A	1/1/2021	12/31/2021	\$75.00		Not Applicable
	\$225.74	N/A	N/A	1/1/2022	12/31/2022	\$77.25	3.00%	
	\$232.51	N/A	N/A	1/1/2023	12/31/2023	\$79.57	3.00%	
	\$239.48	N/A	N/A	1/1/2024	12/31/2024	\$81.95	3.00%	
	\$246.67	N/A	N/A	1/1/2025	12/31/2025	\$84.41	3.00%	
Tim Osterkamp, PE* Task Order Manager Senior Engineer Exempt	\$251.30	N/A	N/A	1/1/2021	12/31/2021	\$86.00		Not Applicable
	\$258.84	N/A	N/A	1/1/2022	12/31/2022	\$88.58	3.00%	
	\$266.61	N/A	N/A	1/1/2023	12/31/2023	\$91.24	3.00%	
	\$274.61	N/A	N/A	1/1/2024	12/31/2024	\$93.97	3.00%	
	\$282.85	N/A	N/A	1/1/2025	12/31/2025	\$96.79	3.00%	
Martin Maechler, PE* Task Order Manager Senior Engineer Exempt	\$219.16	N/A	N/A	1/1/2021	12/31/2021	\$75.00		Not Applicable
	\$225.74	N/A	N/A	1/1/2022	12/31/2022	\$77.25	3.00%	
	\$232.51	N/A	N/A	1/1/2023	12/31/2023	\$79.57	3.00%	
	\$239.48	N/A	N/A	1/1/2024	12/31/2024	\$81.95	3.00%	
	\$246.67	N/A	N/A	1/1/2025	12/31/2025	\$84.41	3.00%	

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EXHIBIT 10-H2 COST PROPOSAL
SPECIFIC RATE OF COMPENSATION (Use for On-Call or As-Needed Contracts)
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For Combined Rate	Fringe Benefit % + General & Administrative %	=	165.65%	Combined ICR%
For Home Office Rate	Fringe Benefit % + General & Administrative %	=		Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=		Field Office ICR%
	Fee	=	10.00%	

BILLING INFORMATION**CALCULATION INFORMATION**

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Average Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From	To			
Anthony Powers, PE*	\$195.78	N/A	N/A	1/1/2021	12/31/2021	\$67.00		Not Applicable
Task Order Manager	\$201.66	N/A	N/A	1/1/2022	12/31/2022	\$69.01	3.00%	
Senior Engineer	\$207.71	N/A	N/A	1/1/2023	12/31/2023	\$71.08	3.00%	
Exempt	\$213.94	N/A	N/A	1/1/2024	12/31/2024	\$73.21	3.00%	
	\$220.36	N/A	N/A	1/1/2025	12/31/2025	\$75.41	3.00%	
Fortunato Enriquez, PE*	\$178.25	N/A	N/A	1/1/2021	12/31/2021	\$61.00		Not Applicable
Task Order Manager	\$183.60	N/A	N/A	1/1/2022	12/31/2022	\$62.83	3.00%	
Associate Engineer	\$189.11	N/A	N/A	1/1/2023	12/31/2023	\$64.71	3.00%	
Exempt	\$194.78	N/A	N/A	1/1/2024	12/31/2024	\$66.66	3.00%	
	\$200.62	N/A	N/A	1/1/2025	12/31/2025	\$68.66	3.00%	
STAFF	\$219.16 - \$292.22	N/A	N/A	1/1/2021	12/31/2021	\$87.50		\$75.00 - \$100.00
Principal in Charge	\$225.74 - \$300.98	N/A	N/A	1/1/2022	12/31/2022	\$90.13	3.00%	\$77.25 - \$103.00
Exempt	\$232.51 - \$310.01	N/A	N/A	1/1/2023	12/31/2023	\$92.83	3.00%	\$79.57 - \$106.09
	\$239.48 - \$319.31	N/A	N/A	1/1/2024	12/31/2024	\$95.61	3.00%	\$81.95 - \$109.27
	\$246.67 - \$328.89	N/A	N/A	1/1/2025	12/31/2025	\$98.48	3.00%	\$84.41 - \$112.55
STAFF	\$160.72 - \$277.60	N/A	N/A	1/1/2021	12/31/2021	\$75.00		\$55.00 - \$95.00
Project Manager	\$165.54 - \$285.93	N/A	N/A	1/1/2022	12/31/2022	\$77.25	3.00%	\$56.65 - \$97.85
Exempt	\$170.51 - \$294.51	N/A	N/A	1/1/2023	12/31/2023	\$79.57	3.00%	\$58.35 - \$100.79
	\$175.62 - \$303.35	N/A	N/A	1/1/2024	12/31/2024	\$81.95	3.00%	\$60.10 - \$103.81
	\$180.89 - \$312.45	N/A	N/A	1/1/2025	12/31/2025	\$84.41	3.00%	\$61.90 - \$106.92

EXHIBIT 10-H2 COST PROPOSAL
SPECIFIC RATE OF COMPENSATION (Use for On-Call or As-Needed Contracts)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

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For Home Office Rate	Fringe Benefit % + General & Administrative %	=		Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=		Field Office ICR%
	Fee	=	10.00%	

BILLING INFORMATION**CALCULATION INFORMATION**

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Average Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From	To			
STAFF QA/QC Manager Exempt	\$160.72 - \$277.60	N/A	N/A	1/1/2021	12/31/2021	\$75.00		\$55.00 - \$95.00
	\$165.54 - \$285.93	N/A	N/A	1/1/2022	12/31/2022	\$77.25	3.00%	\$56.65 - \$97.85
	\$170.51 - \$294.51	N/A	N/A	1/1/2023	12/31/2023	\$79.57	3.00%	\$58.35 - \$100.79
	\$175.62 - \$303.35	N/A	N/A	1/1/2024	12/31/2024	\$81.95	3.00%	\$60.10 - \$103.81
	\$180.89 - \$312.45	N/A	N/A	1/1/2025	12/31/2025	\$84.41	3.00%	\$61.90 - \$106.92
STAFF Senior Engineer Exempt	\$160.72 - \$277.60	N/A	N/A	1/1/2021	12/31/2021	\$75.00		\$55.00 - \$95.00
	\$165.54 - \$285.93	N/A	N/A	1/1/2022	12/31/2022	\$77.25	3.00%	\$56.65 - \$97.85
	\$170.51 - \$294.51	N/A	N/A	1/1/2023	12/31/2023	\$79.57	3.00%	\$58.35 - \$100.79
	\$175.62 - \$303.35	N/A	N/A	1/1/2024	12/31/2024	\$81.95	3.00%	\$60.10 - \$103.81
	\$180.89 - \$312.45	N/A	N/A	1/1/2025	12/31/2025	\$84.41	3.00%	\$61.90 - \$106.92
STAFF Associate Engineer Exempt	\$131.50 - \$189.94	N/A	N/A	1/1/2021	12/31/2021	\$55.00		\$45.00 - \$65.00
	\$135.44 - \$195.64	N/A	N/A	1/1/2022	12/31/2022	\$56.65	3.00%	\$46.35 - \$66.95
	\$139.50 - \$201.51	N/A	N/A	1/1/2023	12/31/2023	\$58.35	3.00%	\$47.74 - \$68.96
	\$143.69 - \$207.55	N/A	N/A	1/1/2024	12/31/2024	\$60.10	3.00%	\$49.17 - \$71.03
	\$148.00 - \$213.78	N/A	N/A	1/1/2025	12/31/2025	\$61.90	3.00%	\$50.65 - \$73.16
STAFF Assistant Engineer Exempt	\$87.66 - \$146.11	N/A	N/A	1/1/2021	12/31/2021	\$40.00		\$30.00 - \$50.00
	\$90.29 - \$150.49	N/A	N/A	1/1/2022	12/31/2022	\$41.20	3.00%	\$30.90 - \$51.50
	\$93.00 - \$155.01	N/A	N/A	1/1/2023	12/31/2023	\$42.44	3.00%	\$31.83 - \$53.05
	\$95.79 - \$159.66	N/A	N/A	1/1/2024	12/31/2024	\$43.71	3.00%	\$32.78 - \$54.64
	\$98.67 - \$164.45	N/A	N/A	1/1/2025	12/31/2025	\$45.02	3.00%	\$33.77 - \$56.28

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EXHIBIT 10-H2 COST PROPOSAL
SPECIFIC RATE OF COMPENSATION (Use for On-Call or As-Needed Contracts)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-Ups are Not Allowed

Consultant Dokken Engineering ☒ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant
 Project No. On-Call Structural Engineering Services - City of Chico Contract No. RFQ No. 2021-02 Participation Amount \$ _____ Date 17-Jun-21

For Combined Rate	Fringe Benefit % + General & Administrative %	=	165.65%	Combined ICR%
For Home Office Rate	Fringe Benefit % + General & Administrative %	=		Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=		Field Office ICR%
	Fcc	=	10.00%	

BILLING INFORMATION**CALCULATION INFORMATION**

Name/Job Title/Classification ¹	Hourly Billing Rates ²				Effective Date of Hourly Rate		Actual or Average Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)		From	To			
STAFF Senior CAD Exempt	\$146.11 - \$233.77	N/A	N/A		1/1/2021	12/31/2021	\$65.00		\$50.00 - \$80.00
	\$150.49 - \$240.79	N/A	N/A		1/1/2022	12/31/2022	\$66.95	3.00%	\$51.50 - \$82.40
	\$155.01 - \$248.01	N/A	N/A		1/1/2023	12/31/2023	\$68.96	3.00%	\$53.05 - \$84.87
	\$159.66 - \$255.45	N/A	N/A		1/1/2024	12/31/2024	\$71.03	3.00%	\$54.64 - \$87.42
	\$164.45 - \$263.11	N/A	N/A		1/1/2025	12/31/2025	\$73.16	3.00%	\$56.28 - \$90.04
STAFF CAD Detailer Engineering Technician Non-Exempt	\$73.05 - \$131.50	N/A	N/A		1/1/2021	12/31/2021	\$35.00		\$25.00 - \$45.00
	\$75.25 - \$135.44	N/A	N/A		1/1/2022	12/31/2022	\$36.05	3.00%	\$25.75 - \$46.35
	\$77.50 - \$139.50	N/A	N/A		1/1/2023	12/31/2023	\$37.13	3.00%	\$26.52 - \$47.74
	\$79.83 - \$143.69	N/A	N/A		1/1/2024	12/31/2024	\$38.25	3.00%	\$27.32 - \$49.17
	\$82.22 - \$148.00	N/A	N/A		1/1/2025	12/31/2025	\$39.39	3.00%	\$28.14 - \$50.65
STAFF Right of Way Manager Senior Right of Way Agent Exempt	\$146.11 - \$233.77	N/A	N/A		1/1/2021	12/31/2021	\$65.00		\$50.00 - \$80.00
	\$150.49 - \$240.79	N/A	N/A		1/1/2022	12/31/2022	\$66.95	3.00%	\$51.50 - \$82.40
	\$155.01 - \$248.01	N/A	N/A		1/1/2023	12/31/2023	\$68.96	3.00%	\$53.05 - \$84.87
	\$159.66 - \$255.45	N/A	N/A		1/1/2024	12/31/2024	\$71.03	3.00%	\$54.64 - \$87.42
	\$164.45 - \$263.11	N/A	N/A		1/1/2025	12/31/2025	\$73.16	3.00%	\$56.28 - \$90.04
STAFF Senior Right of Way Agent Exempt	\$131.50 - \$189.94	N/A	N/A		1/1/2021	12/31/2021	\$55.00		\$45.00 - \$65.00
	\$135.44 - \$195.64	N/A	N/A		1/1/2022	12/31/2022	\$56.65	3.00%	\$46.35 - \$66.95
	\$139.50 - \$201.51	N/A	N/A		1/1/2023	12/31/2023	\$58.35	3.00%	\$47.74 - \$68.96
	\$143.69 - \$207.55	N/A	N/A		1/1/2024	12/31/2024	\$60.10	3.00%	\$49.17 - \$71.03
	\$148.00 - \$213.78	N/A	N/A		1/1/2025	12/31/2025	\$61.90	3.00%	\$50.65 - \$73.16

EXHIBIT 10-H2 COST PROPOSAL
SPECIFIC RATE OF COMPENSATION (Use for On-Call or As-Needed Contracts)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-Ups are Not Allowed

Consultant Dokken Engineering ☒ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant
 Project No. On-Call Structural Engineering Services - City of Chico Contract No. RFQ No. 2021-02 Participation Amount \$ _____ Date 17-Jun-21

For Combined Rate	Fringe Benefit % + General & Administrative %	=	165.65%	Combined ICR%
For Home Office Rate	Fringe Benefit % + General & Administrative %	=		Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=		Field Office ICR%
	Fee	=	10.00%	

BILLING INFORMATION**CALCULATION INFORMATION**

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Average Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From	To			
STAFF Right of Way Agent Exempt	\$73.05 - \$131.50	N/A	N/A	1/1/2021	12/31/2021	\$35.00		\$25.00 - \$45.00
	\$75.25 - \$135.44	N/A	N/A	1/1/2022	12/31/2022	\$36.05	3.00%	\$25.75 - \$46.35
	\$77.50 - \$139.50	N/A	N/A	1/1/2023	12/31/2023	\$37.13	3.00%	\$26.52 - \$47.74
	\$79.83 - \$143.69	N/A	N/A	1/1/2024	12/31/2024	\$38.25	3.00%	\$27.32 - \$49.17
	\$82.22 - \$148.00	N/A	N/A	1/1/2025	12/31/2025	\$39.39	3.00%	\$28.14 - \$50.65
STAFF Right of Way Assistant Non-Exempt	\$43.83 - \$87.66	N/A	N/A	1/1/2021	12/31/2021	\$22.50		\$15.00 - \$30.00
	\$45.15 - \$90.29	N/A	N/A	1/1/2022	12/31/2022	\$23.18	3.00%	\$15.45 - \$30.90
	\$46.50 - \$93.00	N/A	N/A	1/1/2023	12/31/2023	\$23.87	3.00%	\$15.91 - \$31.83
	\$47.90 - \$95.79	N/A	N/A	1/1/2024	12/31/2024	\$24.59	3.00%	\$16.39 - \$32.78
	\$49.33 - \$98.67	N/A	N/A	1/1/2025	12/31/2025	\$25.32	3.00%	\$16.88 - \$33.77
STAFF Professional Land Surveyor Non-Exempt	\$175.33 - \$262.99	N/A	N/A	1/1/2021	12/31/2021	\$75.00		\$60.00 - \$90.00
	\$180.59 - \$270.88	N/A	N/A	1/1/2022	12/31/2022	\$77.25	3.00%	\$61.80 - \$92.70
	\$186.01 - \$279.01	N/A	N/A	1/1/2023	12/31/2023	\$79.57	3.00%	\$63.65 - \$95.48
	\$191.59 - \$287.38	N/A	N/A	1/1/2024	12/31/2024	\$81.95	3.00%	\$65.56 - \$98.35
	\$197.33 - \$296.00	N/A	N/A	1/1/2025	12/31/2025	\$84.41	3.00%	\$67.53 - \$101.30
STAFF Principal Planner Non-Exempt	\$175.33 - \$262.99	N/A	N/A	1/1/2021	12/31/2021	\$75.00		\$60.00 - \$90.00
	\$180.59 - \$270.88	N/A	N/A	1/1/2022	12/31/2022	\$77.25	3.00%	\$61.80 - \$92.70
	\$186.01 - \$279.01	N/A	N/A	1/1/2023	12/31/2023	\$79.57	3.00%	\$63.65 - \$95.48
	\$191.59 - \$287.38	N/A	N/A	1/1/2024	12/31/2024	\$81.95	3.00%	\$65.56 - \$98.35
	\$197.33 - \$296.00	N/A	N/A	1/1/2025	12/31/2025	\$84.41	3.00%	\$67.53 - \$101.30

EXHIBIT 10-H2 COST PROPOSAL
SPECIFIC RATE OF COMPENSATION (Use for On-Call or As-Needed Contracts)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-Ups are Not Allowed

Consultant Dokken Engineering ☒ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant
 Project No. On-Call Structural Engineering Services - City of Chicago Contract No. RFQ No. 2021-02 Participation Amount \$ Date 17-Jun-21

For Combined Rate	Fringe Benefit % + General & Administrative %	=	165.65%	Combined ICR%
For Home Office Rate	Fringe Benefit % + General & Administrative %	=		Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=		Field Office ICR%
	Fee	=	10.00%	

BILLING INFORMATION**CALCULATION INFORMATION**

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Average Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From	To			
STAFF	\$160.72 - \$248.38	N/A	N/A	1/1/2021	12/31/2021	\$70.00		\$55.00 - \$85.00
Environmental Manager	\$165.54 - \$255.83	N/A	N/A	1/1/2022	12/31/2022	\$72.10	3.00%	\$56.65 - \$87.55
Senior Planner	\$170.51 - \$263.51	N/A	N/A	1/1/2023	12/31/2023	\$74.26	3.00%	\$58.35 - \$90.18
Exempt	\$175.62 - \$271.41	N/A	N/A	1/1/2024	12/31/2024	\$76.49	3.00%	\$60.10 - \$92.88
	\$180.89 - \$279.56	N/A	N/A	1/1/2025	12/31/2025	\$78.79	3.00%	\$61.90 - \$95.67
STAFF	\$131.50 - \$189.94	N/A	N/A	1/1/2021	12/31/2021	\$55.00		\$45.00 - \$65.00
Senior Environmental Planner	\$135.44 - \$195.64	N/A	N/A	1/1/2022	12/31/2022	\$56.65	3.00%	\$46.35 - \$66.95
Senior Planner	\$139.50 - \$201.51	N/A	N/A	1/1/2023	12/31/2023	\$58.35	3.00%	\$47.74 - \$68.96
Exempt	\$143.69 - \$207.55	N/A	N/A	1/1/2024	12/31/2024	\$60.10	3.00%	\$49.17 - \$71.03
	\$148.00 - \$213.78	N/A	N/A	1/1/2025	12/31/2025	\$61.90	3.00%	\$50.65 - \$73.16
STAFF	\$87.66 - \$146.11	N/A	N/A	1/1/2021	12/31/2021	\$40.00		\$30.00 - \$50.00
Associate Environmental Planner	\$90.29 - \$150.49	N/A	N/A	1/1/2022	12/31/2022	\$41.20	3.00%	\$30.90 - \$51.50
Associate Planner	\$93.00 - \$155.01	N/A	N/A	1/1/2023	12/31/2023	\$42.44	3.00%	\$31.83 - \$53.05
Exempt	\$95.79 - \$159.66	N/A	N/A	1/1/2024	12/31/2024	\$43.71	3.00%	\$32.78 - \$54.64
	\$98.67 - \$164.45	N/A	N/A	1/1/2025	12/31/2025	\$45.02	3.00%	\$33.77 - \$56.28
STAFF	\$73.05 - \$131.50	N/A	N/A	1/1/2021	12/31/2021	\$35.00		\$25.00 - \$45.00
Environmental Planner	\$75.25 - \$135.44	N/A	N/A	1/1/2022	12/31/2022	\$36.05	3.00%	\$25.75 - \$46.35
Planner	\$77.50 - \$139.50	N/A	N/A	1/1/2023	12/31/2023	\$37.13	3.00%	\$26.52 - \$47.74
Exempt	\$79.83 - \$143.69	N/A	N/A	1/1/2024	12/31/2024	\$38.25	3.00%	\$27.32 - \$49.17
	\$82.22 - \$148.00	N/A	N/A	1/1/2025	12/31/2025	\$39.39	3.00%	\$28.14 - \$50.65

C-7

EXHIBIT 10-H2 COST PROPOSAL
SPECIFIC RATE OF COMPENSATION (Use for On-Call or As-Needed Contracts)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-Ups are Not Allowed

Consultant Dokken Engineering ☒ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant
 Project No. On-Call Structural Engineering Services - City of Chico Contract No. RFQ No. 2021-02 Participation Amount \$ _____ Date 17-Jun-21

For Combined Rate	Fringe Benefit % + General & Administrative %	=	165.65%	Combined ICR%
For Home Office Rate	Fringe Benefit % + General & Administrative %	=		Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=		Field Office ICR%
	Fee	=	10.00%	

BILLING INFORMATION**CALCULATION INFORMATION**

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Average Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From	To			
STAFF	\$116.89 - \$175.33	N/A	N/A	1/1/2021	12/31/2021	\$50.00		\$40.00 - \$60.00
Public Outreach	\$120.39 - \$180.59	N/A	N/A	1/1/2022	12/31/2022	\$51.50	3.00%	\$41.20 - \$61.80
Exempt	\$124.00 - \$186.01	N/A	N/A	1/1/2023	12/31/2023	\$53.05	3.00%	\$42.44 - \$63.65
	\$127.72 - \$191.59	N/A	N/A	1/1/2024	12/31/2024	\$54.64	3.00%	\$43.71 - \$65.56
	\$131.56 - \$197.33	N/A	N/A	1/1/2025	12/31/2025	\$56.28	3.00%	\$45.02 - \$67.53

NOTES:

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

EXHIBIT 10-H2 COST PROPOSAL

EXHIBIT 10-H2 COST PROPOSAL

SPECIFIC RATE OF COMPENSATION (Use for On-Call or As-Needed Contracts)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant Dokken Engineering ☒ Prime Consultant ☐ Subconsultant
Project No. On-Call Structural Engineering Services - City of Chico Contract No. RFQ No. 2021-02 Date 17-Jun-21

SCHEDULE OF OTHER DIRECT COST ITEMS

Description of Item	Quantity	Unit	Unit Cost	TOTAL
Outside Reproduction		Each	\$ -	Actual Cost
Permit Fees/Public Notice Advertisements		Each	\$ -	Actual Cost
Record Search Fees/Mapping Fees		Each	\$ -	Actual Cost
Room and Equipment Rentals		Each	\$ -	Actual Cost
Traffic Control		Each	\$ -	Actual Cost
Utility Potholing		Each	\$ -	Actual Cost
Postage for Public Notice Advertisements		Each	\$ -	Actual Cost
Title Reports/Appraisals/Appraisal Review		Each	\$ -	Actual Cost
See Subconsultant Cost Proposals for Subconsultant ODC Detail				

NOTES:

- List direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentations.
- Proposed ODC items should be consistently billed regardless of client and contract type.
- Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
- Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
- Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
- Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.
- 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 its standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.
- The cost proposal format shall not be amended. All costs must comply with the Federal cost principles.
- Add additional pages if necessary.
- Subconsultants must provide their own cost proposals.

EXHIBIT 10-H2 COST PROPOSAL**Certification of Direct Costs:**

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

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

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

Prime Consultant or Subconsultant Certifying:Name: Richard T. LiptakTitle *: CEOSignature: Date of Certification (mm/dd/yyyy): 6/17/2021Email: rliptak@dokkenengineering.comPhone Number: 916-858-0642Address: 110 Blue Ravine Road, Suite 200, Folsom, CA 95630

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

List services the consultant is providing under the proposed contract:

On-Call Professional Engineering Services

CITY OF CHICO - SERVICE PROVIDER AGREEMENT

DOKKEN ENGINEERING

Provider

ON-CALL SERVICES FOR STRUCTURAL ENGINEERING

Project Title

VARIOUS

Budget Account Number

EXHIBIT D

INSURANCE PROVISIONS

General Liability Insurance

Consultant/Contractor/Provider shall obtain commercial general liability insurance (occurrence policy form) from one or more U.S. domiciled insurance companies licensed to do business in the State of California with an A.M. Best Company rating of "B" or better or, in the alternative, an unlicensed U.S. domiciled company or companies with an "A" rating, which provides coverage for bodily injury, personal injury and property damage liability in the amount of at least \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, with a maximum policy deductible of \$5,000, or as approved by the City's Human Resources and Risk Management Office.

It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specific minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured, whichever is greater.

The insurance coverage required herein shall be evidenced by a certificate of insurance with policy endorsements and shall be executed by an authorized official of the insurer(s). In addition to the limits of coverage described above, the certificate of insurance shall provide that the insurer shall provide to City at least 30 days prior notice of cancellation or material change in coverage, or 10 days prior notice of cancellation for non-payment.

Consultant/Contractor/Provider acknowledges and agrees that City of Chico, its officers, boards and commissions, and members thereof, its employees and agents, are covered as additional insureds with respect to any liability arising out of the activities of Consultant/Contractor/Provider as the named insured. Such additional insured status shall be evidenced by a policy endorsement executed by an authorized official of the insurer(s). A

blanket endorsement which provides additional insured status to any person or organization with whom Consultant/Contractor/Provider, as named insured, has entered into a written contract, such as this Agreement, shall satisfy this requirement.

The insurance coverage required herein shall be primary and non-contributory insurance with respect to the City of Chico, its officers, officials and employees. Any insurance or self-insurance maintained by the City of Chico, its officers, officials or employees shall be in excess of the insurance afforded to the named insured by the insurance coverage required herein and shall not contribute to any loss. Such primary insurance status shall be evidenced by a policy endorsement issued by an authorized official of the insurer(s) and shall be at least as broad as CG 20 01 04 13. In the alternative, a letter issued by an authorized official of the insurer(s) and copies of the pertinent page(s) of the policy shall satisfy this requirement.

The limits of Insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess Insurance. Any umbrella or excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City of Chico (if agreed to in a written contract or agreement) before City of Chico's self-insurance shall be called upon to protect it as a named insured.

All self-insured retentions (SIR) must be disclosed to the City's Human Resources and Risk Management Office for approval and shall not reduce the limits of liability. Policies containing any (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or City of Chico. City of Chico reserves the right to obtain a full certified copy of any Insurance policy or endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Automobile Liability Insurance

Consultant/Contractor/Provider shall obtain automobile liability insurance from one or more U.S. domiciled insurance companies licensed to do business in the State of California with an A.M. Best Company rating of "B" or better which provides coverage for bodily injury, personal injury, and property damage liability in the amount of at least \$500,000 combined single limit for each occurrence. Evidence of such coverage shall be maintained by Consultant/Contractor/Provider and provided to City upon request.

Subconsultant/Subcontractor/Subprovider Insurance

Consultant/Contractor/Provider agrees to include with all subconsultants/subcontractors/subproviders in their subcontract the same requirements and provisions of this agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the subconsultant/subcontractor/subprovider's work. Subconsultant/Subcontractor/Subprovider agrees to be bound to Consultant/Contractor/Provider and City of Chico in the same manner and to the same extent as Consultant/Contractor/Provider is bound to City of Chico under the agreement. Subconsultant/Subcontractor/Subprovider further agrees to include the same requirements and provisions of this agreement, including the indemnity and Insurance

requirements, with any Sub-subconsultant/Sub-subcontractor/Sub-subprovider to the extent they apply to the scope of the Sub-subconsultant/Sub-subcontractor/Sub-subprovider's work.

A copy of the City of Chico Insurance Provisions will be furnished to the subconsultant/subcontractor/subprovider upon request. Evidence of such coverage shall be maintained by Consultant/Contractor/Provider and provided to City upon request.

Workers' Compensation Insurance

Consultant/Contractor/Provider shall, at Consultant/Contractor/Provider's expense, purchase and maintain in full force and effect workers' compensation insurance as required by Federal and State of California law. Consultant/Contractor/Provider shall also require all of Consultant/Contractor/Provider's subconsultants/subcontractors/subproviders to maintain this insurance coverage. Proof of workers' compensation insurance or other documentation acceptable to City evidencing such insurance coverage shall be provided by Consultant/Contractor/Provider or Consultant/Contractor/Provider's subconsultants/subcontractors/subproviders to City upon request.

Subrogation

Consultant/Contractor/Provider shall agree to waive all rights of subrogation against City for losses arising from Services performed by the Consultant/Contractor/Provider or Consultant/Contractor/Provider's subconsultants/subcontractors/subproviders for City under this Agreement.

Indemnity

Consultant/Contractor/Provider/Subconsultant/Subcontractor/Subprovider's responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this agreement.

Professional Liability Insurance

Consultant/Contractor/Provider shall obtain professional liability (errors and omissions) insurance, with a minimum \$1,000,000 limit, from one or more U.S. domiciled insurance companies licensed to do business in the State of California with an A.M. Best Company rating of "B" or better providing coverage for services rendered to City under this Agreement.

Said insurance coverage shall be evidenced by a certificate of insurance which shall be executed by an authorized official of the insurer(s). In addition to the limits of coverage described above, the certificate of insurance shall provide that the insurer shall provide to City at least 30 days prior notice of cancellation or material change in coverage, or 10 days prior notice of cancellation for non-payment.

CITY OF CHICO - SERVICE PROVIDER AGREEMENT

DOKKEN ENGINEERING

Provider

ON-CALL SERVICES FOR STRUCTURAL ENGINEERING

Project Title

VARIOUS

Budget Account Number

EXHIBIT E

CONFLICT OF INTEREST PROVISIONS

Applicable City Conflict of Interest Code Disclosure Categories

Pursuant to the provisions of Chico Municipal Code Section 2R.04.180 (City's Conflict of Interest Code) as well as the Model Conflict of Interest Code promulgated by the State Fair Political Practices Commission in Section 18730 of Title 2 of the California Code of Regulations which is incorporated by reference into the City's Conflict of Interest Code, the City Manager has determined that the following natural persons employed by Provider and identified below, in connection with the Project, will be required to report as provided by the City's Conflict of Interest Code in the Disclosure Categories indicated below.

Accordingly, each such person shall, within 30 days after the execution of this Agreement, on or before April 1 of each year during the term of this Agreement, and within 30 days after completing performance of all duties and obligations under this Agreement, file a Disclosure Statement with the City Clerk which sets forth all of the information pertaining to the required disclosure categories as identified herein. Such persons further understand and agree that if he/she/they fail to comply with the City's Conflict of Interest Code and/or fail to file the required Disclosure Statement, he/she/they will be subject to the criminal penalties and civil sanctions provided for in California Government Code Section 81000, et seq.

Identification – Provider's Project Manager(s)/Principal(s) who are required to file disclosure statements:

Name

Title

Required Disclosure Categories

1. Investments in Business Entities

- ()1a. Any direct or indirect investment in a business entity worth more than \$1,000 where the business entity is located or doing business in the City.
- ()1b. Any direct or indirect investment in a business entity worth more than \$1,000 where the business entity is engaged in contracting with or selling to the City.
- ()1c. Any direct or indirect investment in a business entity worth more than \$1,000 where the business entity is located or doing business in the City of Chico and is engaged in the building and construction industry.
- ()1d. Any direct or indirect investment in a business entity worth more than \$1,000 where the business entity is located or doing business at the Chico Municipal Airport.

2. Interests in Real Property

- ()2a. Any direct or indirect interests in real property worth more than \$1,000 where the real property is located within the City of Chico or within two miles of the City of Chico's boundaries.
- ()2b. Any direct or indirect interests in real property worth more than \$1,000 where the real property is located at the Chico Municipal Airport.

3. Sources of Income

- ()3a. Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$250 or more in value, where the source of income is located or doing business in the City.
- ()3b. Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$250 or more in value, where the source of income is engaged in contracting with or

selling to the City.

- ()3c. Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$250 or more in value, where the source of income is located or doing business in the City of Chico and engaged in the building and construction industry.
- ()3d. Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$250 or more in value, where the source of income is located or doing business at the Chico Municipal Airport.

4. Business Entities in Which the Architect Project Manager(s)/Principal(s) are Director(s), Officer(s), Partner(s), Trustee(s), Employee(s), or Hold(s) Any Position in Management.

- ()4a. Any business entity in which such individual(s) is a director, officer, partner, trustee, employee, or holds any position in management where the business entity is located or doing business in the City of Chico.
- ()4b. Any business entity in which such individual(s) is a director officer, partner, trustee, employee, or holds any position in management where the business entity is engaged in contracting with or selling to the City.
- ()4c. Any business entity in which such individual(s) is a director, officer, partner, trustee, employee, or holds any position in management where the business entity is located or doing business in the City of Chico and is engaged in the building and construction industry.
- ()4d. Any business entity in which such individual(s) is a director, officer, partner, trustee, employee, or holds any position in management where the business entity is located or doing business at the Chico Municipal Airport.

CITY OF CHICO - SERVICE PROVIDER AGREEMENT

DOKKEN ENGINEERING

Provider

ON-CALL SERVICES FOR STRUCTURAL ENGINEERING

Project Title

VARIOUS

Budget Account Number

EXHIBIT F

SPECIAL PROVISIONS

The contract language herein includes provisions (modified and verbatim) from LAPM Exhibit 10-R "A&E Sample Contract Language." In the event of any conflict between these Special Provisions and the provisions contained within Sections 1 through 19 of the City's Standard Contract, these Special Provisions shall prevail.

ARTICLE-I INTRODUCTION

- A. Refer to Standard Contract SECTION 1- DESCRIPTION OF PROJECT for Introduction.

ARTICLE-II CONSULTANT'S REPORTS OR MEETINGS

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

(MANDATORY FISCAL AND FEDERAL PROVISIONS)

ARTICLE-III STATEMENT OF WORK

- A. Refer to Standard Contract SECTION 2- SCOPE OF PROFESSIONAL SERVICES for Statement of Work.

ARTICLE-IV PERFORMANCE PERIOD

- A. Refer to Standard Contract SECTION 2-SCOPE OF PROFESSIONAL SERVICES – BASIC; COMPLETION SCHEDULE for Performance Period.
- B. This AGREEMENT shall go into effect on (DATE), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall be for three years unless amended for two additional one-year extensions. The maximum term of the contract is five years from the date of execution.
- C. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.
- D. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this AGREEMENT, the terms of the AGREEMENT shall be extended by AGREEMENT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only.

ARTICLE-V ALLOWABLE COSTS AND PAYMENTS

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this AGREEMENT. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.
- D. After a project to be performed under this AGREEMENT is identified by LOCAL AGENCY, LOCAL AGENCY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a LOCAL AGENCY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within

ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both LOCAL AGENCY and CONSULTANT.

- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's approved Cost Proposal.
CONSULTANT shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT is responsible for paying the appropriate rate, including escalations that take place during the term of the AGREEMENT.
- F. Reimbursement for transportation and subsistence costs shall not exceed State rates.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an AGREEMENT amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this AGREEMENT.
- J. A Task Order is of no force or effect until returned to LOCAL AGENCY and signed by an authorized representative of LOCAL AGENCY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by LOCAL AGENCY.
- K. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by CONSULTANT prior to the expiration or termination of this

AGREEMENT. Invoices shall be emailed to LOCAL AGENCY's Contract Administrator at the following address:

CITY OF CHICO
Attn: Robyn Ryan
Email: robyn.ryan@chicoca.gov

- L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this AGREEMENT.
- M. The total amount payable by LOCAL AGENCY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.
- N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders may not be used to amend the language (or the terms) of this AGREEMENT nor to exceed the scope of work under this AGREEMENT.
- P. The total amount payable by LOCAL AGENCY for all Task Orders resulting from this AGREEMENT shall not exceed \$900,000. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this AGREEMENT through Task Orders.

ARTICLE-VI TERMINATION

- A. Refer to Standard Contract Section 22-Term; Termination for Termination.

ARTICLE-VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

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

ARTICLE-IX AUDIT REVIEW PROCEDURES

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

a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

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

1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised

independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.

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

ARTICLE-X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the LOCAL AGENCY and any subconsultant(s), and no subagreement shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to the LOCAL AGENCY for the acts and omissions of its Subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its Subconsultant(s) is an independent obligation from the LOCAL AGENCY's obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that, which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its subconsultants within fifteen (15) calendar days from receipt of each payment made to CONSULTANT by the LOCAL AGENCY.
- E. Any substitution of subconsultant(s) must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute subconsultant(s).
- F. **Prompt Progress Payment**
CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing,

the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

G. Prompt Payment of Withheld Funds to Subconsultants

No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

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

**ARTICLE-XI EQUIPMENT PURCHASE AND OTHER CAPITAL
EXPENDITURES**

- A. Prior authorization in writing, by the LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by the

LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.

- C. Any equipment purchased as a result of this AGREEMENT is subject to the following:
1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established the LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.
 2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE-XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.

D. Payroll Records

1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
- F. Penalty
 1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
 4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:

- a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
 6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.
- G. Hours of Labor
- Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.
- H. Employment of Apprentices
1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§

1777.5, 1777.6 and 1777.7 in the employment of apprentices.

2. CONSULTANTs and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE-XIII CONFLICT OF INTEREST

- A. Refer to Standard Contract **Error! Reference source not found.** for Conflict of Interest.

ARTICLE-XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

ARTICLE-XV PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:
 1. No state, federal or LOCAL AGENCY appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any local, state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding or making of this AGREEMENT or the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
 2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this AGREEMENT, CONSULTANT shall complete and submit Standard Form-

LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

- E. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

ARTICLE-XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of, race, , religious creed, color, national origin, ancestry, physical disability), mental disability, medical condition), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. . CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.) and the applicable regulations promulgated there under (California Code of Regulations, 2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing

Government Code Section 12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE

Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE-XVII DEBARMENT AND SUSPENSION CERTIFICATION

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

ARTICLE-XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. CONSULTANT, subrecipient (LOCAL AGENCY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, The LOCAL AGENCY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify that the DBE firm is certified as DBE at date of proposal opening and document the record by printing out the California Unified Certification Program (CUCP) data for each DBE firm. A list of DBEs certified by the CUCP can be found [here](#).

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.

- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

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

- B. The goal for DBE participation for this AGREEMENT is %. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in Exhibit 10-O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.
- D. Contract Assurance
- Under 49 CFR 26.13(b):
- CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

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

E. Termination and Substitution of DBE Subconsultants

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

The LOCAL AGENCY authorizes a request to use other forces or sources of materials if CONSULTANT shows any of the following justifications:

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

CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide the reasons and provide the DBE with 5 days to respond to the notice and advise CONSULTANT and the LOCAL AGENCY of the reasons why the use of other forces or sources of materials should not occur.

CONSULTANT's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from CONSULTANT to the DBE regarding the request.
3. Notices from the DBEs to CONSULTANT regarding the request.

If a listed DBE is terminated or substituted, CONSULTANT must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

F. Commitment and Utilization

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

The LOCAL AGENCY shall request CONSULTANT to:

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

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

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

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

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

- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying

for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.

- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.
- L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to the Agency.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE-XIX INSURANCE

- A. Refer to Standard Contract **Error! Reference source not found.** for Insurance

ARTICLE-XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition, this

AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this contract in any manner.

- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE-XXI CHANGE IN TERMS

- A. Refer to Standard Contract **Error! Reference source not found.** for Change in Terms.

ARTICLE-XXII CONTINGENT FEE

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

ARTICLE-XXIII DISPUTES

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

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

ARTICLE-XXIV INSPECTION OF WORK

- A. CONSULTANT and any subconsultant shall permit the City, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

ARTICLE-XXV SAFETY

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

ARTICLE-XXVI OWNERSHIP OF DATA

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

CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.

- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE-XXVII CLAIMS FILED BY THE LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

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

ARTICLE-XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to the LOCAL AGENCY's operations, which are designated confidential by the LOCAL AGENCY and made available to CONSULTANT in order to carry out this

AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.

- B. Permission to disclose information on one occasion, or public hearing held the LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or the LOCAL AGENCY's actions on the same, except to the LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by the LOCAL AGENCY, and receipt of the LOCAL AGENCY's written permission.

ARTICLE-XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE-XXX EVALUATION OF CONSULTANT

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

ARTICLE-XXXI PROMPT PAYMENT FROM THE LOCAL AGENCY TO CONSULTANT

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

1. Each payment request shall be reviewed by the LOCAL AGENCY as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.

2. Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

ARTICLE-XXXII NOTIFICATION

- A. Refer to Standard Contract **Error! Reference source not found.** for Notification.

ARTICLE-XXXIII CONTRACT

- A. Refer to the last page of the Standard Contract for Contract.

ARTICLE-XXXIV SIGNATURES

- A. Refer to the last page of the Standard Contract for Signatures.