

**DRAFT CONSULTANT SERVICES AGREEMENT BETWEEN CITY OF SUNNYVALE  
AND VALI COOPER & ASSOCIATES INC. FOR CONSTRUCTION MANAGEMENT  
SERVICES FOR THE CALABAZAS CREEK BRIDGE REPLACEMENT PROJECT  
AT OLD MOUNTAIN VIEW-ALVISO ROAD**

THIS AGREEMENT dated \_\_\_\_\_ is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and VALI COOPER & ASSOCIATES INC. ("CONSULTANT"), a California corporation.

WHEREAS, CITY conducted Request for Proposals No. F14-98 and selected CONSULTANT to perform a phase one Constructability Review and provide phase two construction management for the Calabazas Creek Bridge Replacement at Old Mountain View-Alviso Road; and

WHEREAS, CONSULTANT has completed phase one and CITY now desires to secure phase two professional construction management services for the project; and

WHEREAS, CONSULTANT represents that it, and its sub-consultants, if any, possess the professional qualifications and expertise to provide the required services and are licensed by the State of California to practice engineering in the required disciplines;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONSULTANT

CONSULTANT shall provide services in accordance with Exhibit "A" entitled "Scope of Work" and in accordance and compliance with the federal funding requirements established in Chapter 10 of the CALTRANS Local Assistance Procedures Manual and associated exhibits and forms attached hereto and/or incorporated by reference. To accomplish that end, CONSULTANT agrees to assign Rany Chek to this project, to act in the capacity of Construction Manager and personally direct the professional services to be provided by CONSULTANT.

Except as specified in this Agreement, CONSULTANT shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise to perform all operations necessary and required to satisfactorily complete the services required in this Agreement.

2. Notice to Proceed/Completion of Services

- (a) CONSULTANT shall commence services upon receipt of a Notice to Proceed from CITY. Notice shall be deemed to have occurred three (3) calendar days after deposit in the regular course of the United States mail.
- (b) When CITY determines that CONSULTANT has satisfactorily completed the services defined in Exhibit "A," CITY shall give CONSULTANT written Notice of Final Acceptance, and CONSULTANT shall not incur any further costs hereunder. CONSULTANT may request this determination of completion when, in its opinion, it has satisfactorily completed the Scope of Work (Exhibit "A"), and if so requested, CITY shall make this determination within fourteen (14) days of such request.

3. Time for Performance

The term of this Agreement shall be from the date of execution through project completion, unless otherwise terminated. CONSULTANT shall deliver the agreed upon services to CITY as specified in Exhibit "A". Extensions of time may be granted by the City Manager upon a showing of good cause.

#### 4. Allowable Costs and Payments

The method of payment for this Agreement will be based on the actual cost plus fixed fee contract type as defined in Chapter 10 of the California Department of Transportation Local Assistance Procedures Manual. CITY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the attached CONSULTANT's Compensation Schedule (Exhibit "B"), unless additional reimbursement is provided for by contract amendment. In no event will CONSULTANT be reimbursed for overhead costs at a rate that exceeds CITY's approved overhead set forth in the Compensation Schedule. In the event that CITY determines that a change to the work from that specified in the Scope of Work (Exhibit "A") and Agreement is required, the contract time and/or actual costs reimbursable by CITY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in this section shall not be exceeded, unless authorized by contract amendment.

In addition to the allowable incurred costs, CITY will pay CONSULTANT a fixed fee (profit) of 10% as set forth in Exhibit "B". The fixed fee is nonadjustable for the term of the Agreement, except in the event of a significant change in the Scope of Work and such adjustment is made by contract amendment.

Compensation shall not exceed the amounts set forth in Exhibit "B" for each phase. In no event shall the total amount of compensation payable under this agreement exceed the sum of SIX HUNDRED FIFTY NINE THOUSAND EIGHT HUNDRED EIGHTY SEVEN and NO/100 DOLLARS (\$659,887.00), inclusive of the fixed fee (profit) enumerated in Exhibit "B", unless upon written modification of this Agreement. All invoices, including detailed backup, shall be sent to City of Sunnyvale, attention Accounts Payable, P.O. Box 3707, Sunnyvale, CA 94088-3707.

Reimbursement for transportation and subsistence costs shall not exceed the costs in the attached Compensation Schedule. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this Agreement.

If milestone cost estimates are included in the Compensation Schedule, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from CITY before exceeding such cost estimate.

Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items as required, CITY shall have the right to delay payment and/or terminate this Agreement in accordance with Section 24.

CONSULTANT will be reimbursed as promptly as fiscal procedures will permit upon receipt by the CITY of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated in the Compensation Schedule and shall reference the project title. The final invoice must contain the final cost and all credits due CITY. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work.

5. No Assignment of Agreement

CONSULTANT bind themselves, their partners, successors, assigns, executors, and administrators to all covenants of this Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement or any of the work provided for under this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of CITY. However, claims for money due to or to become due to CONSULTANT from CITY under this Agreement may be assigned to a bank, trust company or other financial institutions, or to a trustee in bankruptcy, provided that written notice of any such assignment or transfer shall be first furnished to CITY. In case of the death of one or more members of CONSULTANT's firm, the surviving member or members shall complete the services covered by this Agreement. Any such assignment shall not relieve CONSULTANT from any liability under the terms of this Agreement.

6. Consultant is an Independent Contractor

CONSULTANT is not an agent or employee of CITY but is an independent contractor with full rights to manage its employees subject to the requirements of the law. All persons employed by CONSULTANT in connection with this Agreement will be employees of CONSULTANT and not employees of CITY in any respect. CONSULTANT is responsible for obtaining statutory Workers' Compensation coverage for its employees.

7. Consultant's Services to be Approved by a Registered Professional

All reports, costs estimates, plans and other documents which may be submitted or furnished by CONSULTANT shall be approved and signed by a qualified registered professional in the State of California. The title sheet for calculations, specifications and reports, and each sheet of plans, shall bear the professional seal, certificate number, registration classification, expiration date of certificate and signature of the professional responsible for their preparation.

8. Standard of Workmanship

CONSULTANT represents and maintains that it is skilled in the professional calling necessary to perform the services and its duties and obligations, expressed and implied, contained herein, and CITY expressly relies upon CONSULTANT's representations regarding its skills and knowledge. CONSULTANT shall perform such services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California.

The plans, designs, specifications, estimates, calculations reports and other documents furnished under the Scope of Work (Exhibit "A") shall be of a quality acceptable to CITY. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well-organized, technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by CITY for similar projects.

9. Responsibility of CONSULTANT

CONSULTANT shall be responsible for the professional quality, technical accuracy and the coordination of the services furnished by it under this Agreement. Neither CITY's review, acceptance nor payment for any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement and CONSULTANT shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONSULTANT's negligent performance of any of the services furnished under this Agreement.

Any acceptance by CITY of plans, specifications, calculations, construction contract documents, reports, diagrams, maps and other material prepared by CONSULTANT shall not, in any respect, absolve CONSULTANT for the responsibility CONSULTANT has in accordance with customary standards of good engineering practice in compliance with applicable Federal, State, County and/or municipal laws, ordinances, regulations, rules and orders.

10. Right of CITY to Inspect Records of CONSULTANT

CITY, through its authorized employees, representatives, or agents, shall have the right, at any and all reasonable times, to audit the books and records including, but not limited to, invoices, vouchers, canceled checks, time cards of CONSULTANT for the purpose of verifying any and all charges made by CONSULTANT in connection with this Agreement. CONSULTANT shall maintain for a minimum period of three (3) years from the date of final payment to CONSULTANT or for any longer period required by law, sufficient books and records in accordance with generally accepted accounting practices to establish the correctness of all charges submitted to CITY by CONSULTANT. Any expenses not so recorded shall be disallowed by CITY.

11. Confidentiality of Material

All ideas, memoranda, specifications, plans, calculations, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for CONSULTANT and all other written information submitted to CONSULTANT in connection with the performance of this Agreement shall be held confidential by CONSULTANT and shall not, without the prior written consent of CITY be used for any purposes other than the performance of the Project services, nor be disclosed to an entity not connected with the performance of the Project services. Nothing furnished to CONSULTANT which is otherwise known to CONSULTANT or is or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall not use CITY's name, insignia or distribute exploitative publicity pertaining to the services rendered under this Agreement in any magazine, trade paper, newspaper or other medium without the express written consent of CITY.

12. No Pledging of CITY's Credit

Under no circumstances shall CONSULTANT have the authority or power to pledge the credit of CITY or incur any obligation in the name of CITY.

13. Ownership of Material

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared or caused to be prepared, under this Agreement shall be the property of CITY, but CONSULTANT may retain and use copies thereof.

CITY shall not be limited, in any way, in its use of said material, at any time, for work associated with Project. However, CONSULTANT shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to the release of this material to third parties for work other than on Project.

14. Hold Harmless/Indemnification

To the extent permitted by law (including, without limitation, California Civil Code section 2782.8), CONSULTANT agrees to indemnify, defend and hold harmless CITY, its officers and employees from any

and all claims, demands, actions, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees in connection with any injury or damage to persons or property to the extent arising out of any negligence, recklessness or willful misconduct of CONSULTANT, its officers, employees, agents, contractor, subcontractors or any officer, agent or employee thereof in relation to CONSULTANT's performance under this Agreement. Such defense and indemnification shall not apply in any instance of and to the extent caused by the sole negligence, recklessness or willful misconduct of CITY, its officers, employees, agents or representatives.

15. Insurance Requirements

CONSULTANT shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "C" attached and incorporated by reference, and shall provide all certificates and/or endorsements as specified in Exhibit "C."

16. No Third Party Beneficiary

This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action hereunder for any cause whatsoever.

17. Notices

All notices required by this Agreement, other than invoices for payment which shall be sent directly to Accounts Payable, shall be in writing, and shall be personally delivered, sent by first class with postage prepaid, or sent by commercial courier, addressed as follows:

To CITY: Manuel Pineda, Director of Public Works  
Department of Public Works  
CITY OF SUNNYVALE  
P. O. Box 3707  
Sunnyvale, CA 94088-3707

To CONSULTANT: VALI COOPER & ASSOCIATES INC.  
Attn: Rany Chek  
2000 Powell Street, Suite 550  
Emeryville, CA 94608

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail, by commercial carrier, or hand-delivered. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

18. Waiver

CONSULTANT agrees that waiver by CITY of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

19. Amendments

No alterations or changes to the terms of this Agreement shall be valid unless made in writing and signed by both parties.

20. Integrated Agreement

This Agreement embodies the agreement between CITY and CONSULTANT and its terms and conditions. No verbal agreements or conversation with any officer, agent or employee of CITY prior to execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding upon CITY.

21. Conflict of Interest

CONSULTANT shall avoid all conflicts of interest, or appearance of conflict, in performing the services and agrees to immediately notify CITY of any facts that may give rise to a conflict of interest. CONSULTANT is aware of the prohibition that no officer of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement CONSULTANT shall not accept employment or an obligation which is inconsistent or incompatible with CONSULTANT'S obligations under this Agreement.

22. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

23. Records, Reports and Documentation

CONSULTANT shall maintain complete and accurate records of its operation, including any and all additional records required by CITY in writing. CONSULTANT shall submit to CITY any and all reports concerning its performance under this Agreement that may be requested by CITY in writing. CONSULTANT agrees to assist CITY in meeting CITY's reporting requirements to the state and other agencies with respect to CONSULTANT's work hereunder. All records, reports and documentation relating to the work performed under this Agreement shall be made available to City during the term of this Agreement.

24. Termination of Agreement

- A. If CONSULTANT defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of satisfactory services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.
- B. Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total

which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.

- C. If CITY fails to pay CONSULTANT, CONSULTANT at its option may terminate this Agreement if the failure is not remedied by CITY within (30) days after written notification of failure to pay.

25. Subcontracting

None of the services covered by this Agreement shall be subcontracted without the prior written consent of CITY. Such consent may be issued with notice to proceed if subcontract consultants are listed in the project work plan.

26. Fair Employment

CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, condition of physical handicap, religion, ethnic background or marital status, in violation of state or federal law.

27. Changes

CITY or CONSULTANT may, from time to time, request changes in the terms and conditions of this Agreement. Such changes, which are mutually agreed upon by CITY and CONSULTANT, shall be incorporated in amendments to this Agreement.

28. Other Agreements

This Agreement shall not prevent either Party from entering into similar agreements with others.

29. Severability Clause

In case any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions which shall remain in full force and effect.

30. Captions

The captions of the various sections, paragraphs and subparagraphs, of the contract are for convenience only and shall not be considered nor referred to for resolving questions of interpretation.

31. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

32. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

VALI COOPER & ASSOCIATES INC.  
("CONSULTANT")

\_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
\_\_\_\_\_  
Name/Title

By \_\_\_\_\_  
\_\_\_\_\_  
Name/Title



## **Exhibit “A”**

### **Scope of Work**

#### ***A. Construction Management Services***

Consultant shall assign a Resident Engineer (RE), California PE registration required, for the duration of the Project. The RE shall have relevant bridge construction management experience for minimum of five bridge projects unless this function is adequately covered by another key staff member such as what is known in the Practice as “Structures Representative”. The RE will be the City’s primary representative with the contractor and general public and the party responsible for administering the construction contract for the City.

Consultant services for the construction management services include, but are not limited to performing the duty of the Resident Engineer:

#### Project Administration

1. Provide one full RE and supporting office including office support and inspectors.
2. Provide support to the City during bidding.
3. Perform the duties of the RE and comply with Caltrans Local Assistance requirements. Coordinate with the Contractor, design engineer, City, and other parties involved to schedule and conduct the pre-construction conference.
4. Schedule and conduct construction progress meetings. Prepare and promptly distribute meeting agendas and minutes to all attendees.
5. Attend monthly status meetings with the City to update the City on construction progress and budget status.
6. Monitor the construction budget and ensure that the project remains within budget.
7. Enforce the construction schedule and phasing plan in order to complete the project within the allocated time and schedule. Perform schedule updates analysis as necessary.
8. Monitor project duration by issuing weekly statements of working days.
9. Maintain records for all work performed as part of the project in accordance with Caltrans requirements including the preparation of daily reports.
10. Review and respond to product and project submittals and/or coordinate with the design consultant and the City to review project submittals. Maintain a submittal log and track turnaround time to avoid delays.
11. Review, respond to and log Requests for Information (RFIs). Coordinate with the design Engineer to provide responses.
12. Inspect and ensure that material incorporated into the work meets contract’s requirements. Since this project is federally funded, follow City’s QAP requirements that require following Caltrans QAP outlined in Caltrans Local Assistance Manual.
13. Recommend corrective actions for unforeseen issues, if any, to the City and design Engineer.

14. Obtain cost proposals, negotiate pricing and issue change orders.
15. Review and resolve notices of potential claims.
16. Review and verify construction quantities installed.
17. Review and process progress payments requests.
18. Maintain markups of all changes to the project drawings to be used by the Design consultant to prepare the final record drawing.
19. Conduct walkthroughs with the Contractor and the City, prepare punch lists, and follow up to ensure completion.
20. Maintain prior to, during and post construction photo record of the project.  
OMV Alviso Road Bridge Replacement Project | CM Contract Scope
21. Work closely with City's Labor Compliance Officer and learn City's web-based LCP Tracker Labor Compliance Software to ensure contractor's compliance with Labor Compliance requirements.
22. Use City's web based management software ebuilder to assist in managing the construction contract. The City will provide the licenses and the training to construction management team and the contractor to use the product.
23. Enforce and monitor the permit requirements issued by the regulatory agencies such as the Regional Water Quality Control Board, Army Corps, and Department of Fish and Wildlife.

#### Quality Assurance, Inspection and Material Testing

1. Provide inspectors for day-to-day on-the-job observation/inspection of work and ensure compliance with the contract documents. Accept or reject work as necessary.
2. Maintain daily inspection logs, photographs, etc.
3. Monitor project for conformance with plans, traffic control plan and specifications.
4. Coordinate required testing stated in the specifications and special inspections as necessary. Consultant shall coordinate, review and recommend mitigation measures as necessary.
5. Observe the contractor's final testing and commissioning of utilities.
6. Review and monitor the safety programs developed by the Contractor and as required by OSHA/Cal OSHA.
7. Enforce contractor's quality control.
8. Implement quality assurance program in accordance with the City QAP.
9. Provide, if needed, Pile Dynamic Analysis (PDA) verification of driven pile capacity.

#### Public and Community Relations

1. Ensure contractor compliance with public notification requirements, and other agency requirements.
2. Provide excellent customer support and deal with public concerns and inquiries.
3. Ensure contractor's compliance with required environmental mitigations.
4. Coordinate as necessary with Caltrans, local businesses, residents and other agencies during construction.
5. Facilitate any necessary utility coordination with applicable utility companies, City staff, design engineer and the contractor.
6. Coordinate with PCJPB any contractor work affecting rail operations and flagging. Attend required training to qualify for working within Caltrain right-of-way.

#### Post Construction

1. Review closeout documents (e.g., maintenance, operational, warranty, etc.) as required in the construction documents, and as submitted by the Contractor at the completion of the work.
2. Prepare Caltrans project closeout package
3. Maintain all original documentation in an organized file system, and make it available to the City for review at any time. At the conclusion of the project, the consultant shall provide the City with a hard copy organized per Caltrans filing system to the City. The OMV Alviso Road Bridge Replacement Project | CM Contract Scope consultant shall also provide a digital copy of all the project records or upload into eBuilder as directed.
4. Perform post construction review and prepare lessons learned documents for future projects. Meet with the City and the design consultant to come up with the lessons learned on the project.
5. Assist in Caltrans Project Documentation audit, if applicable.
6. Perform optional service if needed: Assist the City in resolving potential claims that were not resolved during construction and that have been elevated to unresolved claims by completion of construction. Every effort must be made to resolve potential claims during construction.

#### Available Documents

The consultant should be familiar with the following relevant informational resources which will be provided by the City:

- Categorical Exclusion (CE) of NEPA dated 3/8/2016
- Mitigation Monitoring and Reporting Program adopted by City Council in July 2016
- 80% design submittal including PS&E by Biggs Cardosa Associates (BCA) dated 1/16/2016
- Foundation Report by Parikh Consultants dated April 30, 2015
- Structure Type Selection Report by BCA dated September 2014
- Natural Environment Study by H. T. Harvey & Associates dated June 2015

**CITY OF SUNNYVALE | OLD MOUNTAIN VIEW-ALVISO RD BRIDGE REPLACEMENT AT CALABAZAS CREEK**  
**EXHIBIT 10-H COST PROPOSAL | ACTUAL COST-PLUS-FIXED-FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS**  
 (DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

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Consultant: Vali Cooper & Associates, Inc. Federal Project No.: BHLS-5213 (040)  
 Contract No.: \_\_\_\_\_ Date: 4/17/2017

**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Project Manager	Rany Chek	100	\$ 86.54	\$ 8,654.00
Resident Engineer	Shu-Jon Mao	1,530	\$ 70.00	\$ 107,100.00

**LABOR COSTS**

a) Subtotal Direct Labor Costs		\$ 115,754.00	
b) Anticipated Salary Increases †	<u>3.00%</u>	\$ 3,472.62	
		<b>c) TOTAL DIRECT LABOR COSTS</b>	<b>\$ 119,226.62</b>

**FRINGE BENEFITS**

d) Fringe Benefits Rate:	<u>0.00%</u>	<b>e) TOTAL FRINGE BENEFITS</b>	<b>\$ -</b>
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**INDIRECT COSTS**

f) Overhead Rate:	<u>142.22%</u>	g) Overhead	\$ 169,564.10
h) General and Administrative Rate:	<u>0.00%</u>	i) Gen & Admin	\$ -
		<b>j) TOTAL INDIRECT COSTS</b>	<b>\$ 169,564.10</b>

**FEE (Profit)**

q) Rate:	<u>10.00%</u>	<b>k) TOTAL FIXED PROFIT</b>	<b>\$ 28,879.07</b>
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**TOTAL LABOR COSTS** **\$ 317,669.79**

**OTHER DIRECT COSTS (ODC)**

Description	Total
l) Per Diem	\$ 13,500.00
m) Equipment Rental and Supplies	\$ -
n) Permit Fees, Plan sheets, Test Holes, etc.	\$ -
o) Subconsultant: Park Engineering (CM/ Inspection)	\$ 236,085.08
Subconsultant: Abe Construction (PDA)	\$ 6,640.00
Subconsultant: BSK Associates (Materials Testing)	\$ 79,547.00
Subconsultant Markup: 2.0%	\$ 6,445.44
<b>p) TOTAL OTHER DIRECT COSTS</b>	<b>\$ 342,217.52</b>

**TOTAL COST** **\$ 659,887.31**

**NOTES:**

- Employees subject to prevailing wage requirements to be marked with an \*.
  - Rates are based on DIR Prevailing Wage Determination NC-63-3-9-2014-1.
  - ODC items should be based on actual costs and supported by historical data and other documentation.
  - ODC items that would be considered "tools of the trade" are not reimbursable.
  - ODC items should be consistently billed directly to all clients, not just when client will pay for them as a direct cost.
  - ODC items when incurred for the same purpose, in like circumstances, should not be included in any indirect cost pool or in overhead rate.
  - Travel related costs should be pre-approved by the contracting agency. The rates should not exceed the State Department of Personnel Administration (DPA) requirements.
- † 3% annual escalation effective every January 1st after notice to proceed.

## CITY OF SUNNYVALE | OLD MOUNTAIN VIEW-ALVISO RD BRIDGE REPLACEMENT AT CALABAZAS CREEK

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## EXHIBIT 10-H COST PROPOSAL | ACTUAL COST-PLUS-FIXED-FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Federal Project No.: BHLS-5213 (040)

Consultant: Park Engineering Contract No.: \_\_\_\_\_ Date: 4/17/2017**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
* Inspector	* Dave Baker	1455	\$57.68	\$83,924.40
* Inspector - OT (1.5x)	* Dave Baker	170	\$86.52	\$14,708.40

**LABOR COSTS**

a) Subtotal Direct Labor			\$98,632.80	
b) Anticipated Salary Increases	<u>3.00%</u>		<u>\$2,958.98</u>	
		c) <b>TOTAL DIRECT LABOR COSTS</b>		<b><u>\$101,591.78</u></b>

**FRINGE BENEFITS**

d) Fringe Benefits:	<u>36.26%</u>	e) <b>TOTAL FRINGE BENEFITS</b>		<b><u>\$36,837.18</u></b>
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**INDIRECT COSTS**

f) Overhead Rate:	<u>52.75%</u>	g) Overhead	<u>\$53,589.67</u>	
h) General and AdminRate:	<u>22.25%</u>	i) Gen & Admin	<u>\$22,604.17</u>	
		j) <b>TOTAL INDIRECT COSTS</b>		<b><u>\$76,193.84</u></b>

**FIXED FEE (Profit)**

n) Rate:	<u>10.00%</u>	k) <b>TOTAL PROFIT</b>		<b><u>\$21,462.28</u></b>
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<b>TOTAL LABOR COSTS</b>	<b><u>\$236,085.08</u></b>
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**OTHER DIRECT COSTS (ODC)**

l) Travel/Mileage/Vehicle	<u>\$0.00</u>
m) Equipment Rental	<u>\$0.00</u>
n) Permit Fees	<u>\$0.00</u>
o) Subconsultant Costs	<u>\$0.00</u>

p) <b>TOTAL OTHER DIRECT COSTS</b>	<b><u>\$0.00</u></b>
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<b>TOTAL COST</b>	<b><u>\$236,085.08</u></b>
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**NOTES:**

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

# Abe Construction Services, Inc

5111 Doolan Rd., Livermore, CA 94551 Phone: 925-944-6363 Fax: 925-476-1588 Email: SA.ACS@ATT.net

January 5, 2017

## ESTIMATE FOR DYNAMIC PILE TESTING SERVICES

Old Alviso Bridge  
Sunnyvale, CA

Attn: Vali Cooper

From: Steve Abe

### Scope of work:

Sample 1 day quote for two piles

Actual time and days billed at following unit rates.

QTY.	DESCRIPTION	RATE / UNIT	EST. COST
<b>PRE-FIELD ANALYSIS</b>			
0	Wave Equation analysis report (first hammer/pile/soil profile)	\$1,000.00 / each	\$0.00
0	Additional Control Locations/ SDR Profiles Analyzed	\$300.00 / each	\$0.00
0	Additional hammer/pile casees analyzed	\$150.00 / each	\$0.00
<b>FIELD ACTIVITIES</b>			
1	PDA System rental	\$900.00 / day	\$900.00
8	PDA Engineer On site/travel time/safety training (Minimum 4 hrs charged/day)	\$130.00 / hr	\$1,040.00
0	Vibration monitor rental (Monthly)	\$750.00 / each	\$0.00
<b>ANALYSIS \ DATA REDUCTION CHARGES</b>			
2	CAPWAP Analysis	\$300.00 / each	\$600.00
2	PDAPLOT Output (per pile section monitored)	\$70.00 / each	\$140.00
0	Post PDA WEAP Bearing Graphs (5 CONTROL LOCATIONS)	\$300.00 / each	\$0.00
<b>REPORT CHARGES</b>			
1	PDA Reports	\$500.00 / each	\$500.00
0	Principle for meetings/consulting/mitigation	\$200.00 / hr	\$0.00
<b>TRAVEL / MOB EXPENSES</b>			
1	Mob/ Vehicle/ Mileage	\$140.00 /day	\$140.00
0	Hotel/Meals/Vehicle/Perdium	\$100.00 / day	\$0.00
<b>TOTAL ESTIMATE</b>			<b>\$3,320.00</b>

### Notes & Terms:

- a) At least 5 business days notice for work
- b) Working conditions for our engineer which conform with OSHA requirements
- c) Contractor's personnel for gage attachment while pile is in leads.
- d) Test equipment damaged by others due to accidents beyond our control will be charged at cost.
- e) Client agrees ACS's liability is limited to lesser of total amount billed or \$50,000.

This quote is valid for 90 days.

Please sign below indicating your acceptance of the above rates and terms and return by fax.

Company \_\_\_\_\_

Date \_\_\_\_\_

Print name & title

Signature

**EXHIBIT 10-H BSK COST PROPOSAL**COST PER UNIT OF WORK CONTRACTS  
(GEOTECHNICAL AND MATERIAL TESTING)Consultant BSK ASSOCIATES Contract No. BRLS-5213(040) Date December 21, 2016Page 1 of 2**Unit/Item of Work:**

DIRECT LABOR	Hours	Hourly Billing Rate (\$)	Total (\$)
Group 2 Special Inspector*	<u>320</u>	<u>\$101.00</u>	<u>\$32,320.00</u>
Group 3 Engineering Technician*	<u>160</u>	<u>\$ 98.00</u>	<u>\$15,680.00</u>
Non-PW Sample Courier	<u>60</u>	<u>\$ 89.00</u>	<u>\$ 5,340.00</u>
Project Manager	<u>16</u>	<u>\$161.00</u>	<u>\$ 2,576.00</u>
Senior Professional Engineer	<u>6</u>	<u>\$182.00</u>	<u>\$ 1,092.00</u>
Administrative Assistant	<u>12</u>	<u>\$ 67.00</u>	<u>\$ 804.00</u>

**OTHER DIRECT COST**

Description	Unit(s)	Unit Cost	
Nuclear Density Gauge Charge	<u>20</u>	<u>\$ 52.00</u>	<u>\$ 1,040.00</u>
Compaction Curves – 6” Mold (ASTM D1557)	<u>6</u>	<u>\$ 230.00</u>	<u>\$ 1,380.00</u>
Concrete Compressive Strength (Set)	<u>22</u>	<u>\$ 125.00</u>	<u>\$ 2,750.00</u>
Aggregate Gradation (CTM 202)	<u>26</u>	<u>\$ 75.00</u>	<u>\$ 1,950.00</u>
Sand Equivalent (CTM 217)	<u>24</u>	<u>\$ 115.00</u>	<u>\$ 2,760.00</u>
Cleanness Value (CTM 227)	<u>22</u>	<u>\$ 165.00</u>	<u>\$ 3,630.00</u>
Durability Index (AASHTO T210)	<u>2</u>	<u>\$ 230.00</u>	<u>\$ 460.00</u>

Asphalt Binder Content (CTM 382)	<u>2</u>	\$ <u>205.00</u>	\$ <u>410.00</u>
HMA Moisture Content (CTM 370)	<u>2</u>	\$ <u>60.00</u>	\$ <u>120.00</u>
Theoretical Maximum Density (CTM 309)	<u>2</u>	\$ <u>230.00</u>	\$ <u>460.00</u>
Stabilometer Value (CTM 366)	<u>1</u>	\$ <u>160.00</u>	\$ <u>160.00</u>
Calculated AC Max Density (CTM 367)	<u>1</u>	\$ <u>90.00</u>	\$ <u>90.00</u>
Percent Crushed Particles (CTM 205)	<u>1</u>	\$ <u>150.00</u>	\$ <u>150.00</u>
LA Rattler (CTM 211)	<u>1</u>	\$ <u>260.00</u>	\$ <u>260.00</u>
Flat and Elongated Particles (CTM 235)	<u>1</u>	\$ <u>115.00</u>	\$ <u>115.00</u>
Hamburg Wheel Track (AASHTO T34)	<u>1</u>	\$ <u>3,000.00</u>	\$ <u>3,000.00</u>
HMA Core Unit Weight / Bulk Specific Gravity (CTM 308)	<u>6</u>	\$ <u>50.00</u>	\$ <u>300.00</u>
Rebar Coupler Tensile Test w/ Companion Sample	<u>9</u>	\$ <u>300.00</u>	\$ <u>2,700.00</u>

**TOTAL COST PER UNIT OF WORK****\$79,547.00**

## NOTES:

- Denote labor subject to prevailing wage with asterisk (\*).
- Hourly billing rates include hourly wage rate, net fee/profit, indirect cost rate, and actual direct equipment rate.



# BSK Schedule of Fees - Old Mountain View-Alviso Road Bridge Replacement

PERSONNEL RATES			
<b>PROFESSIONAL STAFF</b>		<b>TECHNICAL STAFF (Prevailing Wage)</b>	
Principal	\$ 204.00	Field Supervisor	\$ 134.00
Senior Professional	\$ 182.00	Group 1 - Special Inspector	\$ 106.00
Project Professional II	\$ 161.00	Group 2 - Special Inspector	\$ 101.00
Project Professional I	\$ 134.00	Group 3 - Engineering Technician	\$ 98.00
Staff Professional II	\$ 114.00	Group 4 - Technician	\$ 92.00
Staff Professional I	\$ 107.00	Ground Penetrating Radar Scanning Technician	\$ 235.00
Seismic GIS	\$ 161.00	Core Drilling Technician	\$ 165.00
GIS Specialist	\$ 95.00	Floor Flatness Testing Technician	\$ 135.00
Information Specialist II	\$ 130.00	Sample Pickup / Transportation / Delivery	\$ 89.00
Information Specialist I	\$ 109.00	Laboratory Technician	\$ 89.00
Project Administrator	\$ 72.00	Administrative Assistant / Clerical	\$ 67.00
<b>EQUIPMENT / REIMBURSABLES</b>		<b>BASIS OF CHARGES FOR FIELD TECHNICIAN SERVICES</b>	
Mileage (Portal to Portal)	\$ 0.88	Field Work from 0 to 4 hours	Bill 4 hours
Per Diem (as required)	\$ 150.00	Field Work from 4 to 8 hours	Bill 8 hours
Bridge Toll	Cost + 15%	Field Work over 8 hours / Saturdays	Bill time and a half
Parking Fees	Cost + 15%	Sundays, holidays and over 12 hours	Bill double time
Nuclear Gauge (Day)	\$ 52.00	Swing shift (4:00pm to Midnight)	Add \$15.00 per hour
Ultrasonic Weld Equipment (Day)	\$ 52.00	Graveyard Shift	Add \$20.00 per hour
Subconsultant Services	Cost + 15%	Show-up time (no work performed)	Bill 2 hours
Project Administration Fees	7% of Invoice	Sampling or cylinder pickup, minimum charge	Bill 2 hours
DIR Administration Fees	3% of Invoice		
MATERIALS LABORATORY TESTS			
<b>SOILS</b>			
<b>Moisture Density Curves</b>			
Standard Proctor, 4" (ASTM/AASHTO)	\$ 215.00	<b>California Bearing Ratio (CBR)</b>	
Modified Proctor, 4" Mold (ASTM/AASHTO)	\$ 215.00	CBR at 100% (ASTM D1883 or AASHTO T-180)	\$ 465.00
Modified Proctor, 6" mold (ASTM D1557)	\$ 230.00	CBR at 95% (ASTM D1883 or AASHTO T-180)	\$ 905.00
Caltrans Maximum Wet Density (CT 216)	\$ 195.00	<b>Permeability Tests</b>	
Check Point	\$ 125.00	Rigid Wall Permeability (ASTM D2434)	\$ 260.00
<b>Particle Size Analysis</b>		Flexible Wall Permeability (ASTM D5084)	\$ 400.00
Sieve Analysis w/ Wash (ASTM D422)	\$ 155.00	Remolded Flexwall Perm (ASTM D5084)	\$ 510.00
Minus #200 Wash, Soil (ASTM D1140)	\$ 75.00	<b>Soil Corrosivity Tests</b>	
Hydrometer Analysis (ASTM D422)	\$ 205.00	Minimum Resistivity of Soils (CT 643)	\$ 130.00
Double Hydrometer (ASTM D4221)	\$ 285.00	pH	\$ 60.00
Specific Gravity of Soil (ASTM D854)	\$ 145.00	Soluble Sulfate, Chloride and Sulfide	\$ 120.00
Visual Classification (ASTM D2488)	\$ 40.00	Oxidation Reduction of Soil	\$ 50.00
Sand Equivalent (ASTM D2419)	\$ 115.00	<b>Soil Cement Tests</b>	
% Organics in Soil (ASTM D2974)	\$ 125.00	Freeze Thaw Abrasion (ASTM D560)	\$ 570.00
<b>Atterberg Limits</b>		Wetting-Drying Abrasion (ASTM D559)	\$ 545.00
Plasticity Index (ASTM D4318)	\$ 200.00	Preparation of Freeze-Thaw or Wetting-Drying Tests	\$ 685.00
Shrinkage Limits of Soils (ASTM D427)	\$ 185.00	Soil Cement Compression (ASTM D1633)	\$ 220.00
<b>Moisture Density Test</b>		Cement Content Soil Cement (ASTM C1084)	\$ 220.00
Tube Density	\$ 45.00	<b>Other</b>	
Moisture Content of Soils (ASTM D2216)	\$ 40.00	Sample Preparation	\$ 60.00
<b>Swell Tests</b>		Crumb Test Disperstion (ASTM D6572)	\$ 70.00
Expansion Index of Soils (UBC No. 29)	\$ 215.00	Pinhole Dispersion Test (ASTM)	\$ 230.00
<b>Shear Tests</b>		Sand Density Calibration (ASTM D1566)	\$ 70.00
Direct Shear, Undisturbed (ASTM D3080)	\$ 200.00	<b>GALVANIZED COATINGS</b>	
Direct Shear, Remolded (ASTM D3080)	\$ 235.00	Wt. of Galvanized Coating (ASTM A 90)	\$ 90.00
Triaxial Compression Testing	QUOTE	<b>WOOD PRODUCTS</b>	
<b>Consolidation Tests</b>		<b>Lumber</b>	
Consolidation (ASTM D2435)	\$ 380.00	Specific Gravity and Shrinkage (ASTM D143)	\$ 105.00
Consolidation , Extra Points (ASTM D2435)	\$ 50.00	Moisture Content, Oven Dry (ASTM D2016, Method A)	\$ 45.00
Collapse Potential of Soils (ASTM D2435)	\$ 185.00	Moisture Content, Meter (ASTM D2016, Method B)	\$ 30.00
Remolded Consolidation (ASTM D2435)	\$ 325.00	<b>Plywood</b>	
One-Dimen Swell of Soil (ASTM D4546)	\$ 120.00	Plywood Glue Shear Test (ASTM D805)	QUOTE
<b>Unconfined Compression</b>		Moisture Absorption of Plywood (ASTM D805)	\$ 70.00
Unconfined Compression (ASTM D2166)	\$ 120.00	<b>Glue-Laminated Timbers</b>	
<b>"R" Value Determination</b>		Finger Joint Tension Test (AITC Test 106)	\$ 50.00
R-Value of Soils (CT 301)	\$ 360.00	Bending Test for End Joints (AITC Test 105)	\$ 50.00
R-Value of Treated Materials (CT 301))	\$ 400.00	Adhesive Spread Measurement (AITC Test 102)	\$ 50.00
		Moisture Content and Specific Gravity (AITC Test 111)	\$ 70.00

# BSK Schedule of Fees - Old Mountain View-Alviso Road Bridge Replacement

MATERIALS LABORATORY TESTS			
<b>AGGREGATES</b>		<b>CONCRETE</b>	
Sieve Analysis Coarse or Fine (ASTM C136)	\$ 75.00	Cement Content Concrete (ASTM C1084)	\$ 345.00
Sieve Analysis w/ Fineness Modulus	\$ 80.00	Chemical Test (ASTM C150)	QUOTE
Minus 200 Wash, Aggregates (ASTM C117)	\$ 75.00	Set Times Cement-Vicat Needle (ASTM C191)	\$ 285.00
Specific Gravity/Absorption (ASTM C127)	\$ 145.00	Specific Gravity of Hydraulic Cement (ASTM C191)	\$ 140.00
Specific Gravity/Absorption (ASTM C128)	\$ 145.00	Lineal Shrinkage Set of 3 (ASTM C157)	\$ 360.00
Organic Impurities (ASTM C40)	\$ 75.00	Compression Test of Concrete - 1 (ASTM C39)	\$ 30.00
% Lumps/Friable Particles (ASTM C142)	\$ 75.00	Compression Test of Concrete - 4 (ASTM C39)	\$ 125.00
% Flat and Elongated (ASTM D4791)	\$ 115.00	Compression Test of Core (ASTM C42)	\$ 55.00
Moisture Content (ASTM D2216)	\$ 40.00	Preparation of Specimens, Sawing	\$ 60.00
Aggregate Wt., pcf Compacted (ASTM C29)	\$ 70.00	Compressive Strength of Shotcrete Panel	\$ 290.00
Aggregate Wt., pcf Loose (ASTM C29)	\$ 60.00	Proportion of Cement in Concrete (ASTM C85)	\$ 335.00
Abrasion by LA Rattler, Small Size (ASTM C131)	\$ 215.00	Flexural Test Per Beam (ASTM C78)	\$ 80.00
Abrasion by LA Rattler, Large Size (ASTM C131)	\$ 260.00	Splitting Tensile Strength of Concrete (ASTM C496)	\$ 80.00
Sodium Sulfate Soundness, Per Sieve (ASTM C88)	\$ 100.00	Unit Weight Lt Wt Concrete (ASTM C567)	\$ 50.00
Sodium Sulfate Soundness, Min. Charge (ASTM C88)	\$ 320.00	"AZ" Test-Reinforced Concrete Pipe "Life Factor"	\$ 70.00
Relative Mortar Strength of Sand (ASTM C87)	\$ 390.00	9 Pt Core Measurements, Each (ASTM C174)	\$ 30.00
Sand Equivalent (ASTM D2419 OR CT 217-I)	\$ 115.00	Compressive Strength of Gunite	\$ 55.00
Durability Index (CT 229)	\$ 230.00	Concrete Trial Batches	QUOTE
Potential Reactivity of Aggregates	QUOTE	Unit Weight & Abs Concrete (ASTM D642)	\$ 115.00
Cleaness Value of Aggregate (CT 227)	\$ 165.00	Accelerated Curing of Concrete (ASTM C684)	\$ 230.00
Hydrometer (ASTM D422 OR CT 205-E)	\$ 205.00	Cylinder Molds (each)	\$ 6.00
% Crushed particles (CT 205)	\$ 150.00	Storage of Concrete Cylinders for more than 45 Days	\$ 55.00
Lightweight Pieces (ASTM 123)	\$ 200.00	RH Probe	\$ 55.00
		Calcium Chloride Kit	\$ 35.00
		Mixing Water (pH, elec. conductance, chloride, sulfate)	\$ 90.00
		Contact Soil (pH, elec. conductance, chloride, sulfate)	\$ 110.00
<b>HOT MIX ASPHALT</b>		<b>MASONRY</b>	
Mix Design, HVEEM	\$ 2,830.00	<b>Concrete Masonry Units Testing (ASTM C90)</b>	
Mix Design, Marshall	\$ 3,350.00	Compression Test Pavers, Single	\$ 70.00
AC Content by Centrifuge (ASTM D2172)	\$ 260.00	Compression Test Composit CMU Prism	\$ 150.00
AC Ash Correction (ASTM D2172)	\$ 260.00	Specific Gravity and Unit Weight	\$ 105.00
AC Content-Ignition ASTM D6307 or CT382	\$ 205.00	Moisture Content	\$ 50.00
Moisture Content of Asphalt (CT 370)	\$ 60.00	Compression Test, Masonry Units (ASTM C140)	\$ 95.00
Gradation/Extraction Aggregate (ASTM D5444)	\$ 125.00	Absorption / Moisture Content (ASTM C140)	\$ 95.00
Film Stripping	\$ 80.00	Linear Shrinkage (ASTM C426)	\$ 375.00
Compaction/Preparation of HMA Briquette (CT 304)	\$ 200.00	Masonry Core Shear Test (Title 24)	\$ 100.00
Stabilometer Value (CT 366)	\$ 160.00	Masonry Core Compression/Shear Test (Title 24)	\$ 170.00
AC Core Specific Gravity (ASTM D2726)	\$ 50.00	Compression Test Brick, Each (ASTM C67)	\$ 70.00
AC Max Density Rice Method (ASTM D2041)	\$ 230.00	Absorption/ Unit Wt. of Brick (ASTM C67)	\$ 70.00
Moisture Vapor Susceptibility (CT 307)	\$ 185.00	Compression Test Grout (Set of 3 or 4)	\$ 110.00
AC Surface Abrasion (CT 360)	\$ 455.00	Compression Test Mortar (Set of 3 or 4)	\$ 105.00
Index Retained Strength (ASTM D1074-D1075)	\$ 410.00		
AC Hveem Maximum Density (CT 375)	\$ 410.00	<b>WELDING AND STRUCTURAL STEEL</b>	
Marshall Stability and Flow (ASTM D6927)	\$ 230.00	<b>Welder Qualification Testing</b>	
Calculated AC Maximum Density (CT 367)	\$ 90.00	Welder / Procedure Welder Qualification Testing	QUOTE
Marshall Maximum Density, 50 Blows (ASTM D6926)	\$ 265.00	Face Bend of Steel	\$ 55.00
Examination of AC Cores	\$ 30.00	Root Bend of Weld Coupon	\$ 55.00
Thickness Determination of AC Cores	\$ 20.00	Side Bend of Weld Coupon	\$ 55.00
AC Tensile-Strength Premixed ASTM D4867	\$ 590.00	Tensile Test of Steel Coupon	\$ 75.00
AC Tensile-Strength Lab Mixed ASTM D4867	\$ 695.00	Bend Test of Steel Coupon	\$ 65.00
		Machining Charges (Per Coupon)	QUOTE
<b>REINFORCING STEEL</b>		Brinell Hardness of Steel (ASTM E10)	\$ 90.00
Tensile & Bend of Rebar, #3 - #8	\$ 135.00	Rockwell Hardness of Steel (ASTM E18)	\$ 90.00
Tensile & Bend of Rebar, #9 - #11	\$ 135.00	Bolt Ultimate Load	\$ 130.00
Bend Test of Rebar	\$ 50.00	Bolt Hardness (set of 3)	\$ 90.00
Slip and Tensile Rebar Couplers (CT 670)	\$ 195.00	Nut Hardness (set of 3)	\$ 90.00
Tension Test of Welded Wire Fabric	QUOTE	Washer Hardness (set of 3)	\$ 90.00
Bend Test of Welded Wire Fabric	QUOTE	Proof Loading, bolt or nut	\$ 130.00
Weld Shear Test, Welded Wire Fabric	QUOTE		
PT Cable Tensile and Elongation (ASTM A416 or A421)	\$ 260.00	<b>FIREPROOFING</b>	
PT Cable Preparation	QUOTE	Cohesion/Adhesion Fireproofing Materials	\$ 115.00
		Dry Density Fireproofing (ASTM E605)	\$ 85.00
<b>CALIBRATION</b>			
Torque Wrench	\$ 160.00		
Hydraulic Jack	\$ 150.00		

## Exhibit "C"

### INSURANCE REQUIREMENTS FOR CONSULTANTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Consultant, his agents, representatives, or employees.

**Minimum Scope and Limits of Insurance:** Consultant shall maintain limits no less than:

1. **Commercial General Liability:** \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage. ISO Occurrence Form CG 0001 is required.
2. **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 is required.
3. **Workers' Compensation** and **Employer's Liability:** \$1,000,000 per accident for bodily injury or disease.
4. **Errors and Omissions** Liability Insurance appropriate to the Consultants Profession: \$1,000,000 per occurrence and \$2,000,000 aggregate.

### **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared and approved by the City of Sunnyvale. The consultant shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

### **Other Insurance Provisions**

The **general liability** and **automobile liability** policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Sunnyvale, its officials, employees, agents and volunteers are to be covered as additional insureds with respects to liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, employees, agents or volunteers.
2. For any claims related to this project, the Consultant's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30)

days' prior written notice by certified mail, return receipt requested, has been given to the City of Sunnyvale.

### **Claims Made Coverage**

If the General Liability and/or Errors & Omissions coverages are written on a claims-made form:

1. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the contract work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Consultant must purchase an extended period coverage for a minimum of five years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the City of Sunnyvale for review.

### **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Sunnyvale.

### **Verification of Coverage**

Consultant shall furnish the City of Sunnyvale with original a Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City of Sunnyvale prior to commencement of work.

**Exhibit “D”**

**Completed Federal Forms  
(To be Attached When Completed by Consultant)**

**Exhibit 10-O1 Consultant Proposal DBE Commitment**

**Exhibit 10-O2 Consultant Contract DBE Commitment**

**Exhibit 10-K Consultant Certification of Contract Costs and Financial Management System**

**Exhibit 10-Q Disclosure of Lobbying Activity**

**EXHIBIT 10-R A &E SAMPLE CONTRACT LANGUAGE**

(For Local Assistance Federal-aid Projects)

**TABLE OF CONTENTS  
A&E SAMPLE CONTRACT LANGUAGE**

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#### **ARTICLE IV PERFORMANCE PERIOD (Verbatim)**

*(A time must be set for beginning and ending the work under the contract. The time allowed for performing the work is specified; it should be reasonable for the kind and amount of services contemplated; and it is written into the contract. If it is desirable that Critical Path Method (CPM) networks, or other types of schedules be prepared by CONSULTANT, they should be identified and incorporated into the contract.*

*(Choose either Option 1 or Option 2)*

*(Option 1 - Use paragraphs A & B below for standard and on-call contracts)*

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

*(Option 2 - Use paragraph C below in addition to paragraphs A & B above for on-call contracts)*

- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this contract, the terms of the contract shall be extended by contract amendment.

#### **ARTICLE V ALLOWABLE COSTS AND PAYMENTS (Verbatim)**

*(Choose either Option 1, 2, 3, or 4)*

*(Option 1 - Use paragraphs A through J below for Actual Cost-Plus-Fixed Fee contracts. Use Exhibit 10-H, Example #1 for Cost Proposal Format)*

- A. The method of payment for this contract will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work.

CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY's approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.

B. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$(AMOUNT). The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.

- C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- D. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- E. Progress payments will be made monthly in arrears based on services provided and allowable

incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.

- F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.
- G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

**(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)**

**(ADDRESS)**

- H. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$(Amount).
- I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.

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

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

*(Option 2 - For Cost per Unit of Work contracts, replace paragraphs A & B of Option 1 with the following paragraphs A, B, and C and re-letter the remaining paragraphs. Adjust as necessary for work specific to your project. Use Exhibit 10-H, Example #3 for Cost Proposal Format)*

- A. The method of payment for the following items shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.
- B. The specified rate to be paid for vehicle expense for CONSULTANT's field personnel shall be \$(Amount) per approved Cost Proposal. This rate shall be for a fully equipped vehicle, with radio and flashing yellow light (if needed), as specified in Article II of this contract.

The specified rate to be paid for equipment shall be, as listed in Attachment (Insert Attachment Number).

- C. The method of payment for this contract, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment-rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in the approved Cost Proposal, unless additional reimbursement is provided for, by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and contract is



required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph “I,” shall not be exceeded unless authorized by contract amendment.

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

*(Option 3 - Use paragraphs A through Q for Specific Rates of Compensation contracts [such as on-call contracts]. Use Exhibit 10-H, Example #2 for Cost Proposal Format)*

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's Cost Proposal (Attachment Number). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the cost proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.
- D. After a project to be performed under this contract is identified by 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 Cost Proposal.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this contract has been approved by 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 contract.
- 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, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be

submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract, must be reimbursed by CONSULTANT prior to the expiration or termination of this contract. Invoices shall be mailed to LOCAL AGENCY'S Contract Administrator at the following address:

**(NAME OF LOCAL AGENCY/ NAME OF CONTRACT ADMINISTRATOR)**

**(ADDRESS)**

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

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

N. If the 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 this Agreement and may not exceed the scope of work under this Agreement.

P. The total amount payable by LOCAL AGENCY for all Task Orders resulting from this contract shall not exceed \$ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this contract through Task Orders.

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

*(Option 4 - Use paragraphs A through F below for lump sum contracts. Use Exhibit 10-H, Example #1 for Cost Proposal Format)*

A. The method of payment for this contract will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article II Statement of Work of this contract. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by contract amendment and approved by LOCAL AGENCY.

B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.

C. CONSULTANT shall not commence performance of work or services until this contract 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 of any work, or for any work performed prior to approval of this contract.

D. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT

is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60-calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

**(LOCAL AGENCY/NAME OF CONTRACT**

**ADMINISTRATOR) (ADDRESS)**

- E. The total amount payable by LOCAL AGENCY shall not exceed \$(Amount).
- F. All subcontracts in excess of \$25,000 shall contain the above provisions.

#### **ARTICLE VI TERMINATION (Verbatim)**

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

#### **ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS (Verbatim)**

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

## **ARTICLE VIII RETENTION OF RECORDS/AUDIT (Verbatim)**

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

## **ARTICLE IX AUDIT REVIEW PROCEDURES (Verbatim)**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this contract.

**(The following AUDIT CLAUSE must be inserted into all contracts of \$150,000 or greater)**

- D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, 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, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

**(The following AUDIT CLAUSE must be inserted into all contracts of \$3,500,000 or greater).**

- E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by Caltrans' Audit and Investigation (Caltrans). Caltrans, 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 contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.
1. During a Caltrans' review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at a provisional ICR until a FAR 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 Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I. Provisional rates will be as follows:
    - a. If the proposed rate is less than 150% - the provisional rate reimbursed will be 90% of the proposed rate.
    - b. If the proposed rate is between 150% and 200% - the provisional rate will be 85% of the proposed rate.
    - c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the proposed rate.
  2. If Caltrans is unable to issue a cognizant letter per paragraph E.1. above, Caltrans may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans will then have up to six (60 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 Section E, or if Caltrans 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 provisional 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 provisional ICR will become the actual and final ICR for reimbursement purposes under this contract.
  4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) Caltrans approves or rejects the original or revised independent CPA-audited ICR; (2) all work under this contract has been completed to the satisfaction of LOCAL AGENCY; and, (3) Caltrans has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICETO local agency no later than 60 days after occurrence of the last of these items.

The provisional ICR will apply to this contract and all other contracts executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

#### **ARTICLE X SUBCONTRACTING (Verbatim)**

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

#### **ARTICLE XI EQUIPMENT PURCHASE (Verbatim)**

- A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following:  
"CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the

basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.” 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

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

## **ARTICLE XII STATE PREVAILING WAGE RATES (Verbatim)**

*(Choose either Option 1 or Option 2)*

*(Option 1 - For contracts where a portion of the proposed work to be performed are crafts affected by state labor laws, use paragraphs A and B)*

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

*(Option 2 - Use only paragraph A below when all of the proposed work in the contract is performed by crafts not affected by state labor laws or are not contemplated for use)*

- A. The State of California’s General Prevailing Wage Rates are not applicable to this contract.  
**Note:** The Federal “Payment of Predetermined Minimum Wage” applies only to federal-aid construction contracts.

## **ARTICLE XIII CONFLICT OF INTEREST (Verbatim)**

- A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.
- B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.
- C. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

*(Choose either Option 1 or Option 2 if appropriate)*

*(Option 1 - Use paragraphs D & E below with paragraphs A, B and C above for PS&E contracts only)*

- D. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through

joint-ownership, or otherwise.

- E. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

*(Option 2 - Use paragraphs D, E & F below with paragraphs A, B and C above for Construction Contract Administration contracts only)*

- D. CONSULTANT hereby certifies that neither CONSULTANT, its employees, nor any firm affiliated with CONSULTANT providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint- ownership, or otherwise.
- E. CONSULTANT further certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT, will bid on any construction subcontracts included within the construction contract. Additionally, CONSULTANT certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.
- F. Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this contract shall have provided services on the design of any project included within this contract.

#### **ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (Verbatim)**

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

#### **ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING (Verbatim)**

*(Include this article in all contracts where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the contract; delete this article and re-number the notification article which follows.)*

- 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 state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation,



renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- 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 subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

#### **ARTICLE XVI STATEMENT OF COMPLIANCE**

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

*(For contracts with Federal funding, add paragraphs C & D)*

- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the

basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

#### **ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION**

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