



CITY OF KINGSBURG

REQUEST FOR QUALIFICATIONS

On-Call Right of Way, Appraisal, and Acquisition Consulting Services

- Submittal:** One (1) unbound original and five (5) copies must be received on or before: **4:00 p.m. on October 30, 2018**
- Addressed to:** City of Kingsburg, c/o City Clerk
- Address:** 1401 Draper Street, Kingsburg, CA 93631
- Mark envelope:** **Statement of Qualifications for On-Call Right of Way, Appraisal, and Acquisition Consulting Services**

Responses received after the time and date stated above shall be returned unopened to the proposer.

INQUIRIES:

Direct questions for clarification of this Request for Qualifications document to David Peters, City Engineer, in writing via e-mail at dpeters@peters-engineering.com. Deadline to submit questions regarding this RFQ is **5:00 p.m. on Wednesday, October 24, 2018**.



**CITY OF KINGSBURG
STATE OF CALIFORNIA
REQUEST FOR QUALIFICATIONS**

NOTICE IS HEREBY GIVEN that statements of qualifications will be received at the City of Kingsburg City Clerk's Office, 1401 Draper Street, Kingsburg, California 93631 until 4:00 p.m. on October 30, 2018, for the provision of the following:

**REQUEST FOR QUALIFICATIONS
ON-CALL RIGHT OF WAY, APPRAISAL, AND
ACQUISITION CONSULTING SERVICES**

Any submittal received after the hour stated above for any reason whatsoever, will not be considered for any purpose but will be returned, unopened to the proposer. The submission shall include the entire Request for Qualifications (RFQ) documentation and addenda issued by the City, if any.

Contract documents may be inspected and obtained in the office of the City Clerk 1401 Draper Street, Kingsburg, California 93631 or by calling (559) 897-5821 or by web site <http://cityofkingsburg-ca.gov/>. Please monitor the website for all information regarding this RFQ. The City will not be sending individual notifications of changes, updates, clarifications, and/or addenda.

Total contract amount shall not exceed \$200,000 with a performance period of 3 years with an option to extend 2 years (1 year extensions, no more than twice and not to exceed 5 years total).

The City also hereby affirmatively ensures that Minority Business Enterprises and Disadvantaged Business Enterprises (DBE), as defined in 49 CFR, Part 26, shall have the maximum opportunity to participate in the performance of contracts financed, in whole or in part, under this agreement and will be afforded full opportunity to submit a statement of qualification in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, disability, gender or religion in any consideration leading to the award of contract. No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity leading to the award of a contract.

All persons responding to this invitation shall be aware that their proposal is deemed a public record and may be subject to disclosure upon request. The right is reserved by the City of Kingsburg to reject any or all responses, to waive any irregularities or informalities not affected by law, to evaluate the statements of qualifications submitted and to award the contract according to the statement(s) of qualifications which best serves the interests of said City.

Publication Dates: October 12, 2018
 October 19, 2018

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Appendix A: Required Local Assistance Procedures Manual Exhibits

- Exhibit 10-H Sample Cost Proposal
- Exhibit 10-I Notice of Proposers DBE Information
- Exhibit 10-K Consultant Certification of Contract Costs and Financial Management System
- Exhibit 10-01 Consultant DBE Commitment
- Exhibit 10-02 Consultant Contract DBE
- Exhibit 10-Q Commitment Disclosure of Lobbying Activities
- Exhibit 15-H DBE Information – Good Faith Efforts

I. INTRODUCTION

A. Information

The City of Kingsburg (City) is currently seeking to retain one (1) or more qualified Right-of-Way, Appraisal, and Acquisition firms (Consultant) or Consultant teams to provide property acquisition consulting services in support of various Capital Improvement Projects in the City on an as-needed basis for up to a two-year period. Proposing firms and teams shall have professional right-of-way, property appraisal, property negotiations, eminent domain, relocation assistance, and property acquisition experience related to Capital Improvement Program (CIP) Projects located in a Central Valley municipal setting interacting with multiple agencies / stakeholders within the municipality's boundaries. All services provided by selected consultant(s) shall be compliant with Federal, State, and local requirements and laws in force at the time the services are rendered.

Consultant services may include the following types of activities with services performed in a timely manner respective of the City's specific Project schedule:

- Property Owner Communication – the selected consultant(s) shall track and manage all communication with identified property owners in support of the City's acquisition and relocation services necessary to facilitate a specific CIP Project. The Consultant may make the initial contact with affected property owner(s) and shall maintain contact throughout the acquisition process addressing any concerns raised by the City Attorney, City Engineer, or other real estate consultants working on behalf of the City.
- Conduct Appraisals and Produce Real Property Appraisal Reports – Appraisals shall be conducted by certified appraisers experienced in the public right-of-way acquisition process. A formal appraisal report signed by the appraiser and submitted for each property assigned should be expected along with City review and making edits as necessary to produce a final report. Appraisals may be for one or more parcels and may include full property and partial property acquisitions, temporary and permanent easements, borrow sites, and haul routes. Depending on project funding sources, appraisals shall conform to the standards prescribed by the Federal and State Uniform Relocation Assistance and Real Property Acquisition Policies Act, Federal Transit Administration or Federal Highway Administration procedures, and Caltrans Procedures.
- Eminent Domain Appraisal Expertise – Provide valuations under eminent domain statutes such as before and after measures of severance damages and benefits. Provide real property acquisition negotiations under eminent domain statutes and procedures including for acquisition of fee title, road and utility easements, and temporary construction easements.
- Property Acquisition Services – the qualified and duly licensed Acquisition Agent will prepare and present property owners with formal purchase offers / contracts, conveyance documents, statutory offer(s), settlement agreements, and relocation assistance as necessary. The selected Consultant(s) may negotiate on behalf of the City when acquiring right-of-way, easements, or interest therein as necessary to facilitate a CIP Project. The Acquisition Agent shall review Preliminary Title Reports and may assist in clearing conflicting encumbrances.
- Develop and Implement Relocation Plan(s) – relocation plans shall be prepared in accordance with the California Relocation Assistance Act or 49CFR Part 24 Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The Consultant's relocation specialist shall work with assigned staff and other City real estate consultants and follow the direction of the City Council and / or Board of Public Utilities to facilitate the successful relocation of displaced owners and tenants.
- Project Management and Coordination – the selected Consultant(s) shall assign a project manager to be the City's point of contact and responsible to oversee the work of the Consultant's team such as right-of-way agents, appraisers, acquisition agents, and relocation specialists and shall coordinate these services with the City Engineer, City Attorney, assigned staff, and other real estate consultants including Licensed Surveyor(s) and City approved title company(ies) working on behalf of the City.

The above list is not intended to be exclusive; other services may be requested as the need arises. Selected firm(s) may employ the services of sub-consultants and contractors as it may deem appropriate for the performance of the project, provided that all sub-consultants and contractors are clearly identified in the

Statement of Qualification (SOQ) and approved by the City or are identified with a specific task order and are approved by the City. At a minimum, Consultant Firms and Consultant Teams wishing to be considered shall provide all services noted in the RFQ. As part of the SOQ, Firms and Teams are encouraged to identify additional right of way acquisition related consulting services they believe will be of benefit to the City.

Statement of Qualifications (SOQs) shall be submitted by firms or joint ventures (Teams) that meet the minimum qualifications listed in Section I-C, "MINIMUM QUALIFICATIONS", and have a capable and demonstrable background in the type of work described in Section I A, **Information** and Section II, **SCOPE OF SERVICES**. In addition, all interested Consultants shall demonstrate that they have sufficient, readily available resources in the form of trained professional personnel, trained technical staff, support services, specialized sub-consultants and financial resources to carry out the work without delay or shortcomings.

Due to the as-needed nature of the work, no work (task order) is guaranteed once a Professional Services Agreement is fully executed. The scope of work will vary and will be requested by the City of the Consultant on a task order basis as the need arises.

Funding for these projects will vary, and may include Highway Safety Improvement Program (HSIP), State Transportation Improvement Program (STIP), Surface Transportation Block Grant (STBG), Congestion Management and Air Quality (CMAQ), and local funds. All prospective firms submitting for this RFQ are encouraged to include local firms as part of the consultant team. For local consultants, the SOQ should indicate the location of the office where the work will actually be performed on an assigned task order(s).

This Request for Qualifications is being issued by the City of Kingsburg. Unless otherwise directed, all communications regarding this Request for Proposals should be directed to David Peters, City Engineer at dpeters@peters-engineering.com.

Any revisions to the Request for Qualifications will be issued and distributed as addenda. Respondents are specifically directed not to contact any other City personnel for meetings, conferences or technical discussions related to this Request for Qualifications. Failure to adhere to this policy may be grounds for rejection of the SOQ.

The City of Kingsburg will not be liable for costs incurred by the consulting firms' incidentals to the preparation of SOQ's and if required for developing and carrying out interview presentations.

Submission of an SOQ indicates acceptance by the firm of the conditions contained in this RFQ unless clearly and specifically noted in the SOQ submitted and confirmed in the contract between the City of Kingsburg and the firm(s) selected.

One (1) unbound original and five (5) copies of the SOQ are to be submitted to the City Clerk at 1401 Draper Street, Kingsburg, CA 93631, on or before October 30, 2018, at 4:00 p.m.

B. Background

The City of Kingsburg is located at the intersection of California State Highways 99 and 201, in the San Joaquin Valley. The City is seeking professional property acquisition consultant services to assist the City in facilitating Capital Improvement and Maintenance and Operations Projects. Specifically, the City wishes to obtain professional property acquisition services under an on-call services contract. Consultant(s) selected to enter into a contract will provide real estate acquisition and related services along with related administrative support services for various CIP projects on an as-needed basis.

C. Minimum Qualifications

- Six years minimum of professional and technical experience in right-of-way, property appraisal, property acquisition / negotiations, eminent domain, and relocation assistance services;
- Appraiser(s) shall be certified or licensed by the State to perform the requested services;
- Acquisition agents shall be qualified and professional meeting the highest standards of the field;
- Consultant(s) shall have an exemplary record of performance and record of integrity and ethics;

- Ability to comply with the required or proposed delivery schedule; and,
- Experience working with Caltrans, Union Pacific Railroad, and local irrigation districts is desirable.

D. Purpose of Request and Process for Selection

The City of Kingsburg is in need of assistance with professional right-of-way, appraisal, and acquisition consulting services. Based upon the criteria in the RFQ, the selection committee will select the most qualified firm(s) and attempt to negotiate an Agreement. If such negotiations are not successful, the City may negotiate with the next most qualified respondent(s).

E. Time of Performance

The term of this work shall commence on the Effective Date and expire upon completion of all obligations of the parties, unless earlier terminated by the parties. The initial contract shall be for a twelve (24) month period and shall, at the City’s option and upon mutually agreeable terms, be renewed thereafter for an additional twelve (12) month period.

F. Schedule

<u>Event</u>	<u>Date of Event</u>
RFQ for Right-of-Way, Appraisal, and Acquisition Consulting Services Available	October 8, 2018
All questions must be received by 5:00 p.m.	October 24, 2018
SOQ due by 4:00 pm	October 30, 2018
Interviews of short-listed firms	TBD
City Council Awards Right-of-Way, Appraisal, and Acquisition Consulting Services Contract	TBD
Agreement begins (or sooner)	January 2, 2019

G. Names - Definitions

For this RFQ the Owner and City will be one and the same. For this RFQ the Right-of-Way, Appraisal, and Acquisition Consultant; Consultant; Consultant Team and Proposer will be one and the same.

II. SCOPE OF SERVICES – Request for Qualifications

A. Consultant’s Responsibilities

After full execution of a task order, the selected Consultant(s) shall meet with the City Engineer or the City Project Manager and other City staff as needed to obtain project specific requirements for all right-of-way acquisition needs. The Consultant should expect that all aspects of right-of-way acquisition including appraisals, acquisition, relocation assistance, and eminent domain proceedings will be to current City standards, policies, procedures, regulations, and methods. Lacking a City standard, policy, procedure, or regulation the Consultant shall rely upon and use Caltrans Standards or industry standards/methodologies for preparation and negotiation of right-of-way related analysis, reports, appraisals, acquisition offers, relocation assistance, and eminent domain proceedings. Standards and methodologies used shall be approved by the City prior to performing any work on the project. When Federal Funds are identified as the funding mechanism for the project, the Consultant shall follow all Federal laws, rules, and guidelines governing property acquisition.

Exact tasks, deliverables, and schedules will be identified in a task order. The Consultant shall provide a complete budget for services identified in the task order based on the Consultant’s submitted hourly rate

sheet included as part of the Agreement. The task order budget shall be submitted with the work schedule as identified below.

The Consultant shall provide a working schedule indicating major milestones to complete the work identified in the task order once the scope and approach have been agreed to by the City and Consultant. The schedule will be required to be submitted no later than two weeks after both parties approve the project scope and approach/methodology. At a minimum, the schedule shall include meetings with property owners, tenants, and assigned City staff; appraisal report preparation; anticipated acquisition schedule; relocation assistance schedule; and submittals of documents with expected City review times included.

The Consultant shall hold additional meetings as necessary with property owners, tenants, and various City Departments as the project progress to insure project requirements and outcomes are understood and addressed in any reports or analysis submitted to the City for review and approval.

The Consultant may be requested to meet with various City Staff, the Board of Public Utility, City Council, and other stakeholders from time to time to provide recommendations and provide updates on the status of the project.

The Consultant should expect a draft, a final draft, and final signed submittal for reports and analyses prepared by the Consultant. The Consultant's schedule shall include the various submittals expected for each task order and provide sufficient time for the City to review and make comments.

As needed, the Consultant will perform field data collection necessary to complete the requirements of a specific task order. The Consultant is solely responsible for safety of its employees including any sub-consultant employees during any field operations. Field and office surveys and preparation of legal plats and / or descriptions will be provided by the City to the Consultant. The Consultant will contract with a City approved title company for all services needed related to property acquisition. Fees for title company services shall be included in the Consultant's budget for each specific task order.

Consultant shall provide project management to a level commensurate with the task order executed including clearly defining lines of communication between the City and the Consultant/Consultant Team, coordination necessary for successful completion of the task order, timely invoicing for services render, and notification of tasks considered outside the executed task order.

The above list is not intended to be comprehensive; additional services may be identified through the preparation of a specific task order. Without penalty, the Consultant will be given the opportunity to excuse himself/herself from performing the task order if identified tasks are not part of the Consultant's expertise and cannot be address with the addition of sub-consultants or if the Consultant does not have available work force to complete the task order in the time frame identified.

B. City Responsibilities

- Provide a "City Representative" who will represent the City and who will work with the Right-of-Way, Appraiser, and Acquisition Consultant / Consultant Team in carrying out the provisions of task orders assigned.
- Provide a project specific task order (including schedule) to be used to develop a budget fee for services and to assist Consultant with determining interest/ability to perform work.
- Provide available data pertinent to task order.
- Provide list of property owners, tenants, and other pertinent stakeholders expected to be affected by a specific task order.
- Provide plats, written legal descriptions, and / or exhibits showing properties included with task order.
- Provide the Consultant with City documents including policies, procedures, regulations and standards pertinent to the task order.
- Attend meetings with Consultant; conduct meeting where appropriate.

- Examine documents submitted to the City by the Right-of-Way, Appraisal, and Acquisition Consultant and timely render decisions pertaining thereto.
- Give reasonably prompt consideration to all matters submitted by the Right-of-Way, Appraisal, and Acquisition Consultant for approval to the end that there will be no substantial delays in the Consultant's progress of work.
- Provide necessary environmental processing including CEQA and NEPA based on tasks identified in task order or request the Consultant to include necessary environmental reviews as part of the Consultant's task order.
- Compensate the Right-of-Way, Appraiser, and Acquisition Consultant as provided in the contract agreement.

III. PROPOSAL CONTENT AND FORMAT REQUIREMENTS

Respondents are requested to organize their SOQ into sections with tabs corresponding to the listed selection criteria as follows. Please answer the following questions in the same sequence as below. A screening committee will evaluate the completeness of the response to the RFQ.

A. General Information

- Firm name, address, telephone number and fax number.
- Firm Representative or other person to contact for clarification of any item contained in the SOQ. Include email address and telephone and fax numbers if different from above.
- Specify type of organization (individual, partnership or corporation) and if applicable indicate whether you are:
 - a. Small Business.
 - b. Disadvantaged Business.
 - c. Minority and/or Women-Owned Business.
- Provide your Federal Tax ID Number and City of Kingsburg Business Tax Certificate Number.
- Provide names of company's owners / officers.
- Personnel of the Proposer's Firm must be identified in the SOQ with their background and the firm must give assurances of continuity of its personnel. A contact person needs to be identified.
- Provide surety information for all sureties – General and Automobile Liability, E/O and Worker's Compensation.
- References and Referrals – Provide five (5) public agency references for similar assignments directly involving the right-of-way agent, appraiser, acquisition agent, and relocation specialist. Past experience should be specific to services related to acquiring property in a municipal (City, County, State, Special District) setting. The location where the services were rendered, the Consultant's fee for services, and reference (contact person) shall be included for each project listed.

The envelope enclosing the separate, sealed SOQ shall be plainly marked in the upper left-hand corner as follows:

City of Kingsburg, c/o City Clerk
Company's Name
Company's Address
RFQ for On-Call Right-of-Way, Appraisal, and Acquisition Consultant Services
Deadline for Submittal: 4:00 p.m. Tuesday, October 30, 2018
City Hall - City Clerk's Office, 1401 Draper Street, Kingsburg, CA 93631

B. Ability to Provide Requested Services

- In this Section indicate which property acquisition services your firm can provide, a brief description of your level of experience in successfully providing these services, and a brief descriptions of past work providing the same services (at a minimum appraisals, property acquisitions, relocation assistance, and eminent domain) in a similar municipal setting. If services will be provided outside your firm, provide the same information for each sub-consultant or contractor included with your team.
- Identify additional property acquisition services not noted in this RFQ that your firm feels would benefit the City with a brief statement of why the service is of importance to the City.

In addition, you are invited to include a maximum of two (2) pages of information not included, nor requested in this RFQ, if you feel it may be useful and applicable to this project.

C. Staff Qualifications and Related Experience

1. Staff Qualifications and Experience

This section should demonstrate the qualifications of all professional personnel to be assigned to this project by providing resumes/experience summaries describing their education, credentials, related experience of each individual employee or subcontractor proposed for assignment to the project and their proposed roles for this contract. Note: Right-of-Way, Appraisal, and Acquisition Consultant may not substitute any member of the project team without prior written approval of the City.

2. Related Experience

Include descriptive information concerning the experience of the firm. Include information about previous projects which are similar in nature, delivery method, magnitude, complexity, budget variance, and other appropriate information. Substantial weight is given to a firm's ability to deliver projects on budget and within an approved timeframe. Please demonstrate the firm's ability to meet these goals.

D. Compensation

Firms shall submit their current fee schedule showing the hourly rates for the various professional, sub-profession, technical, field, and administrative staff anticipated to be used on assigned task orders based on the general description of work outline in this RFQ. The hourly rate sheet will be used to negotiate a fee for a specific task order when assigned. Firms shall submit a rate sheet that is valid for a period of two years from the date the SOQ is submitted.

E. Federal-Aid Provisions

The proposing Consultant's services are federally funded, which necessitate compliance with additional requirements. Special attention is directed to Local Assistance Procedures Manual Exhibit (LAPM) 10-I, Notice to Proposers DBE Information included in Appendix D. Additional forms and instructions that will be

required submittals during the course of the contract are also provided for the proposer in Appendix D.

This solicitation is financed in whole or in part and therefore subject to Title 49, Code of Federal Regulations, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". To ensure equal participation for Disadvantaged Business Enterprise (DBE) groups specified in 49 CFR 26.5, a DBE participation is required. Only participation by certified DBEs will count toward the contract goal for this solicitation. In order to count toward a contract goal, a firm must be certified by the California Unified Certification Program (CUCP) and possess the work codes applicable to the type of work the firm will perform on the Agreement by the SOQ submittal due date. For a list of work codes, go to: http://www.dot.ca.gov/hq/bep/find_certified.htm.

It is the proposer's responsibility to verify that the DBE firm is certified as a DBE by the specified SOQ submittal due date and time. For a list of DBEs certified by the CUCP, go to: http://www.dot.ca.gov/hq/bep/find_certified.htm.

Reference "Statement of Qualifications Submittal Requirements" for detailed information and references to the required forms. Required forms will be made part of the agreement. Failure to meet the DBE goal or Good Faith Effort requirements and provide required DBE participation at due date and time of SOQ submittal may result in the SOQ submittal being rejected as non-responsive.

Federal and/or State prevailing wage rates may apply. This requirement, if applicable, will be specified in the draft Agreement.

The proposing Consultant shall complete and submit the following forms **with the proposal** to be considered responsive:

- CITY Proposer DBE Commitment (Consultant Contracts); (LAPM 10-O1). **The CITY's contract DBE Goal is 8%.**
- DBE Information - Good Faith Efforts (Exhibit 15-H). Submit this form only if DBE goal not met.
- Disclosure of Lobbying Activities (LAPM 10-Q)
- Consultant Certification of Contract Costs and Financial Management System (LAPM 10-K) and Cost Proposal (Example #2 – LAPM 10-H). **Provide these forms in a separate sealed envelope titled "CONSULTANT COST DATA".**

Upon award and through completion of the project, the successful proposing Consultant will be required to follow applicable federal-aid requirements and shall complete and submit with the agreement the following forms at the time of award:

- CITY Proposer DBE Information (Consultant Contracts) (LAPM 10-O2)
- Cost Proposal (Example #1 - LAPM 10-H)
- Any other relevant forms required during the project.

Consultant shall demonstrate familiarity of providing services for federally funded projects and have clear understanding of requirements/needs to facilitate the project through the City of Kingsburg, Caltrans Local Assistance, and the Local Assistance Procedures Manual.

F. Conflict of Interest

- Disclose any financial, business or other relationship with the City or any member of the City staff that may have an impact on the outcome of the project.
- List current clients who may have a financial interest in the outcome of the project

IV. CONSULTING FIRM SELECTION PROCEDURE

Selection of the successful respondents shall be generally based on the information provided by the proposer in response to the Request for Qualifications and any subsequent interviews that may be conducted.

The process for selection shall occur in the following sequence:

- Review SOQs
- Establish a “short list” of qualified firms.
- Interview “short listed” firms (at the option and discretion of the City).
- Identify best qualified firm(s)
- Recommend contract award to City Council

Consultant selection shall be based on the information provided in the SOQs received in response to the RFQ. The City reserves the right to make the selection of a Consultant(s) based on any or all factors of value, whether quantitatively identifiable or not, including, but not limited to, the anticipated initiative and ability of the Proposer to perform the services set forth herein.

A project Selection Committee, as deemed necessary, will be formed to evaluate proposal qualifications, interview short-listed firms, and to make a contract award recommendation to the Kingsburg City Council. The Committee will review the proposals for format to ensure conformance with the requirements of the RFQ. During interviews, if needed, the Proposer will be allowed to present such evidence as may be appropriate in order that the Committee can correctly analyze all materials and documentation submitted as a part of the SOQ.

Composition and creation of this committee is at the sole discretion of the City. Names of the Committee members will not be released prior to the time for interviews.

A. Evaluation Process and Criteria

All submittals will be evaluated by the CITY's Selection Committee. The Committee may be composed of CITY staff and other parties that may have expertise or experience in the services described herein. The Committee will review the submittals and will rank the proposers. The evaluation of the proposals shall be within the sole judgment and discretion of the Committee. All contacts during the evaluation phase shall be through the CITY Contract Administrator/Project Manager only. Proposers shall neither contact nor lobby evaluators during the evaluation process. Attempts by Proposer to contact members of the Committee may jeopardize the integrity of the evaluation and selection process and risk possible disqualification of Proposer.

The Committee will evaluate each submittal meeting the qualification requirements set forth in this RFQ. Proposers should bear in mind that any submittal that is unrealistic in terms of the technical or schedule commitments may be deemed reflective of an inherent lack of technical competence or indicative of a failure to comprehend the complexity and risk of the CITY's requirements as set forth in this RFQ.

The selection process will include oral interviews. The consultant will be notified of the time and place of oral interviews and if any additional information that may be required to be submitted.

Consultants invited to interviews will be required to submit cost proposals in sealed envelopes during the interview. Upon completion of the evaluation and selection process, only the cost proposal from the most qualified consultant will be opened to begin cost negotiations. All unopened cost proposals will be returned at the conclusion of the procurement process. Upon acceptance of a cost proposal and successful contract negotiations, staff will recommend a contract be awarded.

Proposals will be evaluated according to each Evaluation Criteria, and scored on a zero to five point rating. The scores for all the Evaluation Criteria will then be multiplied according to their assigned weight to arrive at a weighted score for each proposal. A submittal with a high weighted total will be deemed of higher quality than a proposal with a lesser-weighted total. The final maximum score for any project is five hundred (500)

points.

Rating Scale		
0	Not Acceptable	Non-responsive, fails to meet RFQ specifications. The approach has no probability of success. For mandatory requirement this score will result in disqualification of submittal.
1	Poor	Below average, falls short of expectations, is substandard to that which is the average or expected norm, has a low probability of success in achieving project objectives per RFQ.
2	Fair	Has a reasonable probability of success, however, some objectives may not be met.
3	Average	Acceptable, achieves all objectives in a reasonable fashion per RFQ specification. This will be the baseline score for each item with adjustments based on interpretation of submittal by Evaluation Committee members.
4	Above Average / Good	Very good probability of success, better than that which is average or expected as the norm. Achieves all objectives per RFQ requirements and expectations.
5	Excellent/ Exceptional	Exceeds expectations, very innovative, clearly superior to that which is average or expected as the norm. Excellent probability of success and in achieving all objectives and meeting RFQ specification.

The Evaluation Criteria Summary and their respective weights are as follows:

No.	Written Evaluation Criteria	Weight
1	Completeness of Response	Pass/Fail
2	Qualifications & Experience	40
3	Organization & Approach	15
4	Experience on Similar Projects	20
5	Staff Availability	10
6	Conflict of Interest Statement	Pass/Fail
7	References	15
Subtotal:		100

No.	Interview Evaluation Criteria (if necessary)	Weight
9	Presentation by team	10
10	Q&A Response to panel questions	15
Subtotal:		25
Total(if interviews are necessary):		125

1. Completeness of Response (Pass/Fail)

- a. Responses to this RFQ must be complete. Responses that do not include the proposal content requirements identified within this RFQ and subsequent addenda and do not address each of the items listed below will be considered incomplete, be rated a Fail in the Evaluation Criteria and will receive no further consideration. Responses that are rated a Fail and are not considered may be picked up at the delivery location within 14 calendar days of contract award and/or the completion of the competitive process.

2. Qualifications & Experience (30 points)

- a. Relevant experience, specific qualifications, and technical expertise of the firm and sub-consultants to conduct Materials Testing & Geotechnical engineering services on both federal and non-federal aid projects.

3. Organization & Approach (20 points)

- a. Describes familiarity of project and demonstrates understanding of work completed to date and project objectives moving forward
- b. Roles and Organization of Proposed Team
 - i. Proposes adequate and appropriate disciplines of project team.
 - ii. Some or all of team members have previously worked together on similar project(s).
 - iii. Overall organization of the team is relevant to CITY needs.
- c. Project and Management Approach
 - i. Team is managed by an individual with appropriate experience in similar projects. This person's time is appropriately committed to the project.
 - ii. Team successfully addresses Site Planning and Programming efforts.
 - iii. Project team and management approach responds to project issues. Team structure provides adequate capability to perform both volume and quality of needed work within project schedule milestones.
- d. Roles of Key Individuals on the Team
 - i. Proposed team members, as demonstrated by enclosed resumes, have relevant experience for their role in the project.
 - ii. Key positions required to execute the project team's responsibilities are appropriately staffed.
- e. Working Relationship with CITY
 - i. Team and its leaders have experience working in the public sector and knowledge of public sector procurement process.
 - ii. Team leadership understands the nature of public sector work and its decision making process.
 - iii. Proposal responds to need to assist CITY during the project.

4. Experience on Similar Projects (20 points)

- a. Consultant demonstrates experience with performance of services on municipal projects similar in nature to those related to this solicitation.
- b. Consultant demonstrates successful completion of said projects.
- c. Consultant is familiar with federally funded project development procedures.

5. Staff Availability (10 points)

- a. Consultant demonstrates project team staff is available and able to promptly respond to requests throughout the contract duration in order to timely delivery projects.

6. Conflict of Interest Statement (Pass/Fail)

- a. Discloses any financial, business or other relationship with the CITY that may have an impact upon the outcome of the contract or the construction project.
- b. Lists current clients who may have a financial interest in the outcome of this contract or the construction project that will follow.
- c. Discloses any financial interest or relationship with any construction company that might submit a bid on the construction project.

7. References (15 points)

- a. Provide as reference the name of at least three (3) agencies you currently or have previously consulted for in the past three (3) years.

8. Presentation by Team (if necessary) (10 points)

- a. Team presentation conveying project understanding, communication skills, innovative ideas, critical issues and solutions.

9. Q&A Response to Panel Questions (if necessary) (15 points)

- a. Proposer provides responses to various interview panel questions.

B. Background Check

The City reserves the right to conduct a background inquiry of each Proposer which may include the collection of appropriate criminal history information, contractual and business associations and practices, employment histories and reputation in the business community. By submitting an SOQ to the City, the Proposer consents to such an inquiry and agrees to make available to the City such books and records as the City deems necessary to conduct the inquiry.

C. Award of Contract

The City intends to identify one or more consulting firms with which to enter into Professional Services Agreement for on-call services. The City of Kingsburg reserves the right to reject any or all SOQs, to waive any informality in any SOQ, to sit and act as sole judge of the merit of each response submitted, to select a consultant, and to award in any manner which is more favorable to the City of Kingsburg. After the selection of successful firm(s), the City will negotiate contracts in substantial conformance to the sample professional services contract contained in Attachment 'A' reflecting the terms and conditions of the proposal plus the City's standard liability and insurance requirements. A Draft Agreement has been included in this RFQ to alert proposers to the provisions generally found in City contracts. The Draft Agreement may be altered from

the enclosed form at the discretion of the City and without notice to consultant prior to award of contract. The City does not guarantee that the Final Agreement will duplicate the enclosed Draft Agreement.

V. GENERAL CONDITIONS

A. Important Notice

The City of Kingsburg will not be responsible for oral interpretations given by any City employee, representative, or others. Proposers are cautioned that any statements made that materially change any portion of the RFQ documents shall not be relied upon unless subsequently ratified by a formal written addendum to the RFQ document. The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information can be given. If any addenda are issued to this Request for Qualifications, the City will attempt to notify all prospective consultants who have secured same. However, it will be the responsibility of each Proposer, prior to submitting their proposal, to contact the City Clerk at 1401 Draper Street, Kingsburg, CA 93631, (559) 897-521 to determine if addenda were issued and to make such addenda a part of the SOQ.

B. Contracting Agency

The contract resulting from this Request for Qualifications will be administered by the City Manager.

C. Legal Responsibilities

By submitting an SOQ, Consultant certifies that he or she will comply with all Federal laws and requirements, including but not limited to Equal Employment Opportunity, Disadvantaged Business Enterprise, Labor Protection and other laws and regulation applicable to contracts utilizing State and Federal Funds.

D. Permits and Licenses

1. Business License Certificate

Possession of a City of Kingsburg Business License is not required to submit a proposal in response to this RFQ. *However, selected consultant(s) shall be required to possess, at his/her own expense, a valid and current City of Kingsburg Business License, prior to commencing work.* For fee information, contact the City of Kingsburg Finance Department at (559) 897-5821.

2. Professional License/Certification

Appraisers shall be licensed or certified in the State of California by the Department of Consumer Affairs, Bureau of Real Estate Appraisers. Acquisition specialist shall be a licensed broker or licensed real estate agent working under a licensed broker. Relocation specialists shall certified as a Certified Relocation Professional.

3. Permits

Selected consultant(s) shall be required to obtain and maintain at his/her own expense, any and all permits, licenses and certifications issued by any federal, state or local governmental agency, pertaining to, and necessary for providing the services required in this Request for Proposals.

E. Insurance

1. Insurance

With respect to performance of work under an agreement as a result of responding to this RFQ, Consultant shall maintain, and shall require all of its Sub-consultants to maintain, insurance as described below:

- i) **Commercial General Liability and Property Damage.** The Consultant shall maintain insurance for protection against all claims arising from injury to person or persons not in the employment of the

Consultant and against all claims resulting from damage to any property due to any act or omission of the Consultant, his agents, or employees in the operation of the work or the execution of this contract. Such insurance shall include products/completed operations liability, owners and Consultant's protective, blanket contractual liability, personal injury liability, and broad form property damage coverage. The minimum shall be as follows:

Bodily Injury (Injury or Accidental Death) and \$2,000,000 Combined Single Limit.
Property Damage (Per occurrence)

- ii) **Commercial Automobile Public Liability and Property Damage.** The Consultant shall maintain Automobile Public Liability and Property Damage Insurance for protection against all claims arising from the use of vehicles, owned, hired and non-owned, or any other vehicle in the prosecution of the work included in this contract. Such insurance shall cover the use of automobiles and trucks on and off the site of the project. The minimum amounts of Automobile Public Liability and Property Damage Insurance shall be as follows:

Bodily Injury (Injury or Accidental Death) and \$1,000,000 Combined Single Limit.
Property Damage (Per occurrence)

- iii) **Workers' Compensation Insurance.** The Consultant shall maintain Workers' Compensation Insurance with statutory limits and Employers Liability Insurance with limits of not less than \$1,000,000 per accident. Such insurance shall comply with all applicable state laws. Consultant shall provide the City with a Certificate of Insurance showing proof of insurance acceptable to City. Certificates containing wording that releases the insurance company from liability for non-notification of cancellation of the insurance policy are not acceptable. Policies are to be endorsed to include a waiver of subrogation against the City, its officers, official's agents and employees. Consultant and its employees are independent Consultants and not employees of the City of Kingsburg. Consultant and/or its insurers are responsible for payment of any liability arising out of Worker's Compensation, unemployment or employee benefits offered to its employees.

The insuring provisions, insofar as they may be judged to be against public policy shall be void and unenforceable only to the minimum extent necessary so that the remaining terms of the insuring provisions herein may be within public policy and enforceable. The City's Risk Manager is hereby authorized to reduce the requirements set forth above in the event they determine that such reduction is in the City's best interest.

2. Additional Insured

The General Liability and Auto Liability policy is to contain or be endorsed to name the City, its officers, appointed and elected officials, agents and employees as Additional Insured as respects the liability arising out of the activities performed in connection with this contract. The coverage shall (a) be primary with respect to any insurance or self-insurance programs maintained by the City; (b) 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; and (c) contain Standard Cross-liability provisions. Such additional insured endorsements maintained by the Consultant and its Sub-consultants shall not be required to provide coverage for City for the active negligence of City. Original endorsements, signed by a person authorized to bind coverage on its behalf, shall be furnished to the City by the successful proposer.

3. Indemnification

Indemnity for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless Agency and any and all of its officials, employees and agents from and against any and all claims, demands, losses, liabilities, damages, costs, consequential damages, expenses, including legal counsel's fees and costs but only to the extent the Consultant (and its Sub-consultants) are responsible for such damages, liabilities and costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional on a comparative basis of fault between the Consultant (and its Sub-consultants) and the Agency in the performance of professional services under this agreement. Consultant shall not be obligated to defend or indemnify Agency for the Agency's own negligence or for the negligence of others.

The successful proposer acknowledges that he has fully informed himself of the contents and meaning of this hold harmless agreement and has so executed it with full knowledge thereof and that the terms are contractual and not a mere recital. These requirements shall also apply to any Sub-consultant whose hazards are not covered by the Consultant's insurance policies.

4. Deductibles and Self-Insured Retention

Any deductibles or self-insured retention must be declared to, and approved by, the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officials, employees, agents and Consultants; or the vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City.

Separate endorsements are required, naming the City as additional insured, for liability insurance and providing a waiver of subrogation for Worker's Compensation Insurance.

The successful proposer shall maintain the insurance for the life of the Professional Services Agreement (Agreement). Said insurance shall contain a provision that coverage afforded under the policies will not be canceled unless and until thirty (30) days prior written notice has been given to the City.

Endorsements are to be received and approved by the City before work commences. Should Consultant cease to have insurance as required during any time, all work by Consultant pursuant to the Agreement shall cease until insurance acceptable to the City is provided.

Original insurance certificates and endorsements are to be mailed or delivered to:

City of Kingsburg
1401 Draper Street
Kingsburg, CA 93631

In addition to any other remedies the City may have if the Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the contract; or
2. Order Consultant to stop work under the contract and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof; or
3. Terminate the contract.

Exercise of any of the above remedies, however, is an alternative to other remedies the City may have and is not the exclusive remedy for the Consultant's failure to maintain or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which the Consultant may be held responsible for payments of damages to persons or property resulting from the Consultant's or its Sub-consultant's performance of the work covered under the contract.

VI. CONTRACT REQUIREMENTS

A sample Contract / Professional Services Agreement (Agreement) is included in the Attachments to this RFQ to be reviewed by the Consultant. An agreement between the City and each selected Consultant will be required to be fully executed prior to a task order being assigned. As part of the Agreement, the Consultant's hour rate schedule will be attached.

Any requested changes, modifications, and edits to the Agreement by a Consultant submitting an SOQ shall be clearly identified in the submitted SOQ. The included Agreement has been approved by the City for use in securing professional services and therefore is not expected to be modified at the Consultant's request. Comments provided by Consultants related to the Agreement will be reviewed with efforts made to obtain acceptance by both parties. However, the City will not modify language that puts the City in an inferior position or lessor position than authorized or specified in the sample agreement.

A. WITHDRAWAL OF STATEMENT OF QUALIFICATIONS

Any SOQ may be withdrawn at any time prior to the time fixed in the public notice for the receipt of SOQs, only by written request. The request shall be executed by the Proposer or his duly authorized representative. The withdrawal of an SOQ does not prejudice the right of the Proposer to file a new SOQ. No SOQ may be withdrawn after the time fixed in the public notice for the receipt of SOQs.

B. REJECTION OF STATEMENT OF QUALIFICATIONS

Failure to meet the requirements of the RFQ may be cause for rejection of the SOQ. The City may reject the SOQ if it is deemed incomplete, contains irregularities of any kind or is offered conditionally. The City reserves the right to reject any and all SOQs without cause.

The SOQ is to be prepared in such a way as to provide a straightforward, concise delineation of the information requested. SOQs which contain false or misleading statements, or which do not support an attribute or condition claimed by the Proposer may be cause for rejection of the SOQ. If, in the opinion of the City, such information was intended to mislead the City in its evaluation of the SOQ, it will be cause for rejection of the SOQ.

C. EVALUATION/EXECUTION OF AGREEMENT

Evaluation and selection of SOQs will be based on the information called for in this RFQ and as identified in Section IV. Consulting Firm Selection Procedure. Brochures or other promotional presentations beyond that sufficient to submit a complete and effective SOQ are not desired. Elaborate artwork, expensive paper or binders, and expensive visuals are not necessary.

Execution of the Agreement, if authorized, will be made within ninety (90) calendar days from the RFQ closing date. Proposer agrees and so stipulates in submitting this SOQ, as though stated therein, and in any subsequent execution of Professional Services Agreement (Agreement) that:

1. Agreement, should it be executed, shall be interpreted, construed, and given effect in all respects according to the laws of the State of California.
2. Should Proposer be offered to execute an Agreement, Proposer shall not assign the Agreement, or any part thereof, or any moneys due or to become due there under, without prior consent of the City.
3. Proposer shall hold the City harmless from liability of any nature or kind, including cost and expenses for infringement or use of any copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract.
4. Proposer warrants that no gratuities, in the form of gifts, entertainment, or otherwise, were offered or given by the proposer, to any officer or employee of the City with a view toward securing the Agreement or securing favorable treatment with respect to any determination concerning the performance of the contract (Agreement). For breach or violation of this warranty, the City shall have the right to terminate the Agreement, either in whole or in part. The rights and remedies of the City provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under the contract.

D. FEE FOR SERVICES GUIDELINES

Consultant shall provide a fee schedule that it warrants will be applicable for a period of two years from the date SOQ is submitted. Proposed fees schedule shall be submitted under separate, sealed cover identified in the same fashion as the SOQ.

E. ASSIGNMENT OF AGREEMENT

No assignment by the Consultant of the Agreement or any part hereof, or of funds to be received there under, will be binding upon the City unless such assignment had prior written approval and consent of the City. In the event the City gives such consent, the terms and conditions of the Agreement shall apply to, and bind the party or parties to whom such work is assigned, sublet or transferred.

F. TERMINATION OF AGREEMENT

The nature of this Agreement requires that the City and the selected Consultant(s) must work closely as a mutually supporting team without conflict. Also, the City needs to be able to terminate this Agreement at any time the City may feel this working relationship has been impaired or should the City no longer have complete confidence and satisfaction in the quality and performance of services by the Consultant(s). Therefore:

1. This Agreement may be terminated for convenience, without cause by the City, in whole or in part, by giving the Consultant(s) thirty (30) days written notice of the intent to terminate whenever the City determines that termination is in the best interest of the City. Should the Agreement be terminated for convenience, the Consultant(s) shall be paid for all authorized services provided, including reasonable charges for de-mobilization. However, the Consultant(s) shall not be paid any anticipated profit or fees for services not provided.
2. If the Consultant(s) shall fail to provide services or perform satisfactorily the work required by the terms and conditions of the Agreement, or materially breaches any of its obligations under this Agreement the City may terminate the Agreement, in whole or in part.
3. Any assignment, subletting or transfer of the interest of the Consultant, either in whole or in part, without the written consent of the City shall be cause for the City to immediately terminate the Agreement for default.
4. Notwithstanding any other provisions of this Agreement, this Agreement may be terminated by the City upon a single violation of this Agreement.

After receipt of a notice of termination, except as otherwise directed, the Consultant(s) shall stop work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders for services, except as necessary for completion of such portion of the services not terminated; and settle all outstanding liabilities and claims.

In the event the City terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.

Except with respect to defaults of Sub-consultants, the Consultant shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the Consultant. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event the failure to perform is caused by the default of a Sub-consultant, the Consultant shall not be liable for failure to perform, unless the services to be furnished by the Sub-consultant were obtainable from other sources in sufficient time and within budgeted resources to permit the Consultant to meet the required delivery schedule or other performance requirements.

Should the Agreement be terminated with or without cause, the Consultant shall provide the City with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by the Consultant pursuant to this Agreement.

Upon termination, with or without cause, Consultant will be compensated for the services satisfactorily completed to the date of the termination according to compensation provisions contained herein. In no event shall the total compensation paid Consultant exceed the total compensation agreed to herein.

If, after notice of termination of this Agreement, as provided for in this article, it is determined for any reason that the Consultant was not in default under the provisions of this article, then the rights and obligations of the parties shall be the same as if the Agreement were terminated without cause.

Termination of this Agreement shall not terminate any obligation to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination activities.

G. RIGHT TO REQUIRE PERFORMANCE

The failure of the City at any time to require performance by the selected Consultant(s) of any provisions hereof shall in no way affect the right of the City thereafter to enforce the same. Nor shall waiver by the City of any breach of any provision hereof be taken or held to be waiver of any succeeding breach of such provision or as a waiver of any provision itself.

H. ETHICS IN PUBLIC CONTRACTING

Each Proposer, by submitting a SOQ, certifies that it is not a party to any collusive action or any action that may be in violation of the Sherman Antitrust Act by submitting a SOQ, the Proposer certifies that its SOQ was made without fraud; that it has not offered or received any kickbacks or inducements from any other Proposer in connection with the request for qualifications; and that it has not conferred on any public employee, public member or public official having responsibility for this procurement transaction, any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value. The Proposer further certifies that no relationship exists between itself and the City or another person or organization that interferes with fair competition or constitutes a conflict of interest with respect to a contract (Agreement) with the City of Kingsburg.

Prior to the execution of any Agreement, the potential Consultant may be required to certify in writing to the Engineering Division that no relationship exists between the Proposer and any City employee, officer, official or agent that interferes with fair competition or is a conflict of interest with respect to a contract with the City of Kingsburg.

More than one SOQ from an individual, firm, partnership, corporation or association under the same or different names may be rejected. Reasonable grounds for believing that a Proposer has interest in more than one SOQ for the work solicited may result in rejection of all SOQs in which the proposer is believed to have an interest.

I. INDEPENDENT CONTRACTOR

In the performance of the services herein provided, the Consultant shall be, and is an independent contractor and is not an agent or employee of the City. The Consultant has and shall retain the right to exercise full control and supervision of all persons assisting the Consultant in the performance of said services hereunder. The Consultant shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

J. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of the Agreement, Consultant agrees to the following:

1. Proposer shall comply with all the requirements, when applicable, of the California Fair Employment Practice Commission and provisions of, when applicable, all Federal, State of California, County of Kingsburg and City of Kingsburg laws and ordinances related to employment practices.
2. Proposer shall not discriminate against any employee or applicant for employment on the basis of race, religion, color, gender, age, handicap, national origin or ancestry, except when such a condition is a bona fide occupational qualification reasonably necessary for the normal operations of the proposer. Selected Consultants and their Sub-consultants agree to post in conspicuous places, visible to the employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
3. Proposer, in all solicitations or advertisements for employees, placed by, or on behalf of the proposer, shall state that proposer is an Equal Opportunity Employer.

K. VENUE

Any executed Agreement resulting from this solicitation shall be governed by, and construed in accordance with, the laws of the State of California. Venue for any litigation arising out of the Agreement will be vested in Fresno County, California.

L. PROPRIETARY INFORMATION

The SOQs received shall become the property of the City of Kingsburg and are subject to public disclosure. Fee schedules and information submitted by proposers will be made available to proposers after City Council has authorized execution of an Agreement. Proposers are to indicate any restrictions on the use of data contained in their responses. Those parts of a SOQ which are defined by the Proposer as business or trade secrets, as that term is defined in California Government Code, Section 6254.7, and are reasonably marked as "Trade Secrets", "Confidential" or "Proprietary" shall only be disclosed to the public if such disclosure is required or permitted under the California Public Records Act or otherwise by law. Proposers who indiscriminately and without justification identify most, or all, of their SOQ as exempt from disclosure may be deemed non-responsive.

M. INCURRING COSTS

The City of Kingsburg is not liable for any cost incurred by proposers in responding to this Request for Qualifications.

N. PRE-AWARD AUDIT

Consultant and sub-consultant agreements in excess of \$1,000,000 shall require a pre-award audit as outlined in Caltrans Local Assistance Procedures Manual.

VII. ATTACHMENTS

A. Clean Air and Water Pollution Control Certification

CLEAN AIR AND WATER POLLUTION CONTROL CERTIFICATION
(AIR: 42 U.S.C. § 7401 et seq.,
WATER: 33 U.S.C. § 1251 et seq; 49 CFR, Part 18, Section 18.36)

To Accompany Proposal

PROPOSER agrees that any facility to be used in the performance of the contract, or to benefit from the contract, is not listed on the Environmental Protection Agency List of Violating Facilities.

PROPOSER also agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. relating to the inspection, monitoring, entry, reports and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued there under.

PROPOSER agrees that as a condition for award of the contract, the PROPOSER will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of, or benefit from, the contract is under consideration to be listed on the EPA List of Violating Facilities.

Company: _____

Business Address: _____

Signature: _____

Name of Signing Official: _____

Title of Signing Official: _____

Date: _____

Company Seal:

B. Lobbying Restrictions Certification

**LOBBYING RESTRICTIONS CERTIFICATION
(FOR AWARDS OF \$100,000 OR MORE)
(31 U.S.C. § 1352; 24 CFR Part 87 as amended by 2 U.S.C § 1601, et seq.)**

To Accompany Proposal

The undersigned certifies, to the best of his knowledge and belief, that:

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

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

(3) The undersigned shall require that the language of this certification to be included in the award documents for all sub awards at all tiers (including SUBBIDDERS, sub grants, and contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

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 (if the award is \$100,000 or more) imposed by Section 1352, Title 31, U.S. Code, as amended by 2 U.S.C. 1601, et seq.. Any persons who fail 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.

Company: _____

Business Address: _____

Signature: _____

Name of Signing Official: _____

Title of Signing Official: _____

Date: _____

Company Seal:

C. Debarment and Suspension Certification

DEBARMENT AND SUSPENSION CERTIFICATION

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, and 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 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 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

Company: _____

Business Address: _____

Signature: _____

Name of Signing Official: _____

Title of Signing Official: _____

Date: _____

D. Non-Collusion Affidavit

NON-COLLUSION AFFIDAVIT

To Accompany Proposal

TO: THE CITY OF KINGSBURG

The undersigned, in submitting a proposal for performing the following work by contract, being duly sworn, deposes and says:

That he/she has not, either directly or indirectly, entered into any agreement, participate in any collusion, or otherwise taken any action in restraint of free competition in connection with such contract.

Work to be Done:

RFQ for On-Call Right-of-Way, Appraisal, and Acquisition Consulting Services

Proposer's Name: _____

Signature of Proposer: _____

Title: _____

Business Address: _____

Place of Residence: _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____ Notary Public in and for

the County of _____, State of California.

My commission expires: _____.

E. Workers' Compensation Insurance Certificate

WORKERS' COMPENSATION INSURANCE CERTIFICATE

STATE OF CALIFORNIA)
) ss
CITY OF KINGSBURG)

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work under this contract.

Company: _____

Business Address: _____

Signature: _____

Name of Signing Official: _____

Title of Signing Official: _____

Date: _____

Company Seal:

F. Equal Employment Opportunity Compliance Certificate

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE CERTIFICATE

Equal Opportunity Clause

Unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Executive Orders 28925, 11114 or Section 204 of Executive Order 11246 of September 24, 1965, during the performance of each contract with the City of Kingsburg, the consultant agrees as follows:

1. The consultant will not discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin or political affiliation. The consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, gender, national origin or political affiliation. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The consultant will, in all solicitations or advertisements for employees, placed by or on behalf of the consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, national origin or political affiliation.
3. The consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or the workers' representative of the consultants' commitments under Section 202 of Executive order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevancy orders of the Secretary of Labor.
5. The consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and relevant orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the consultant's non-compliance with the non-discrimination clauses of this subcontract or with any of such rules, regulations or orders, this subcontract may be canceled, terminated or suspended, in whole, or in part and the consultant may be declared ineligible for further government contracts in accordance with the procedures authorized in accordance with Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or otherwise provided by law.
7. The consultant will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subconsultant or vendor. The consultant will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that in the event the consultant becomes involved in, or is threatened with litigation with a subconsultant or vendor as a result of such direction by the contracting agency, the consultant may request the United States to enter into such litigation to protect the interest of the United States.

Certification on Non-Segregated Facilities

The consultant hereby certifies that it does not or will not maintain segregated facilities not permit its employees to work at locations where facilities are segregated on the basis of race, color, religion, gender, national origin or political affiliation.

Name of Firm

Authorized Signature

Date

SAMPLE CONTRACT-subject to changes

PROFESSIONAL SERVICES AGREEMENT

PROJECT NAME

This Agreement, entered into this _____ day of _____, 20____, by and between the City of Kingsburg, hereinafter referred to as the "CITY", and _____ hereinafter referred to as the "CONSULTANT".

W I T N E S S E I H

WHEREAS, the CITY is authorized and empowered to employ consultants and specialists in the performance of its duties and functions; and

WHEREAS, the CITY has the desire to secure certain technical and professional services to assist in the preparation and completion of the items of work described as "Scope of Work" in Exhibit "A", and hereinafter referred to as the "PROJECT"; and

WHEREAS, the CONSULTANT represents it is licensed, qualified and willing to provide such services pursuant to terms and conditions of this Agreement.

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

I. SERVICES TO BE PERFORMED BY THE CONSULTANT

- A. Authorized Scope of Work: The CONSULTANT agrees to perform all work necessary to complete in a manner satisfactory to the CITY those tasks described in Exhibit "A" - Scope of Work, for the cost identified in Exhibit "B" - Project Fee.
- B. Additional Services: Incidental work related to the PROJECT and not provided for in Exhibit "A" may be needed during the performance of this Agreement. The CONSULTANT agrees to provide any and all additional services at the rates identified in attached Exhibit "C" - Schedule of Fees for Professional Services. Such additional services shall not be performed by CONSULTANT without the written consent of CITY.

II. TIME OF PERFORMANCE

The CONSULTANT shall commence performance of this Agreement within ten (10) days following City's issuance of Notice to Proceed and shall complete the work within the timeframes outlined in Exhibit "A", unless otherwise extended in writing by CITY, in its sole discretion.

If the CONSULTANT fails to complete the PROJECT within the time specified, plus any extensions of time which may be granted, the CITY shall determine the percent of each work item completed and shall pay the CONSULTANT on that basis.

CONSULTANT shall not be responsible for delays which are due to causes beyond the CONSULTANT's reasonable control. In the case of any such delay, the time of completion shall be extended accordingly in writing signed by both parties.

III. COMPENSATION

- A. Total Compensation: For services performed pursuant to this Agreement, the CITY agrees to pay and the CONSULTANT agrees to accept, as payment in full, a sum not to exceed _____ dollars (\$ _____). This amount shall constitute complete compensation, including document production and out-of-pocket expenses for all services for the work and PROJECT identified in Exhibits "A" and "B".
- B. Payment of Compensation: The CONSULTANT shall be compensated according to the progress payment schedule set forth in Exhibit "D" upon completion of percentage of each noted phase. The CONSULTANT shall be paid no later than thirty (30) days following submission of a written, verified billing to the CITY. Said billing shall include the percentage of each task completed to date and since the date of the preceding billing, if any.

IV. AUTHORIZED REPRESENTATIVE

- A. CITY: The _____ shall represent the CITY in all matters pertaining to the services to be rendered under this Agreement, except where approval of the City Council of the City of Kingsburg is specifically required.
- B. CONSULTANT: _____ shall represent and act as principle for CONSULTANT in all matters pertaining to the services to be rendered by it under this Agreement.

V. TERMINATION

The right to terminate this Agreement, with or without cause, may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

- A. Termination By Either Party Without Cause: The CITY or CONSULTANT may terminate this Agreement at any time by giving written notice to the other of such termination and specifying

the effective date thereof, at least fifteen (15) days before the effective date of such termination.

B. Termination of Agreement for Cause: The CITY may by written notice to the CONSULTANT specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination, terminate the whole or any part of this Agreement in any of the following circumstances:

1. If the CONSULTANT fails to perform the services called for by this Agreement within time(s) specified herein or any extension thereof; or
2. If the CONSULTANT fails to make progress under this Agreement as to endanger performance of this Agreement in accordance with its terms, and does not correct such failure within a period of ten (10) days (or longer period as the CITY may authorize in writing) after receipt of notice from the CITY specifying such failure.

C. Post-Termination:

1. In the event the CITY terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.
2. Except with respect to defaults of sub consultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event the failure to perform is caused by the default of a sub consultant, the CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the sub consultant were obtainable from other sources in sufficient time and within budgeted resources to permit the CONSULTANT to meet the required delivery schedule or other performance requirements.
3. Should the Agreement be terminated with or without cause, the CONSULTANT shall provide the CITY with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by the CONSULTANT pursuant to this Agreement.
4. Upon termination, with or without cause, CONSULTANT will be compensated for the services satisfactorily completed to the date of termination according to compensation provisions contained herein. In no event, shall the total compensation paid CONSULTANT exceed the total compensation agreed to herein.
5. If, after notice of termination of this Agreement, as provided for in this article, it is determined for any reason that the CONSULTANT was not in default under the provisions of this article, then the rights and obligations of the parties shall be the same as if the Agreement was terminated without cause.

6. Termination of this Agreement shall not terminate any obligation to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination activities.

VI. INTEREST OF OFFICIALS AND THE CONSULTANT

- A. No officer, member, or employee of the CITY who exercises any functions or responsibilities in the review or approval of this Agreement shall:
 1. Participate in any decision relating to this Agreement which effects his personal interest or the interest of any corporation, partnership, or association in which he has, directly or indirectly, any interest; or
 2. Have any interest, direct or indirect, in this Agreement or the proceeds thereof during his tenure or for one year thereafter.
- B. The CONSULTANT hereby covenants that he has, at the time of the execution of this Agreement, no interest, and that he shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. The CONSULTANT further covenants that in the performance of this work, no person having any such interest shall be employed.

VII. NO PERSONNEL AGENCY, COMMISSION, OR CONTINGENT FEE

The CONSULTANT warrants, by execution of this Agreement, that no personnel agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, the CITY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

VIII. SUBCONTRACTING

- A. The CONSULTANT shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without the prior written approval of the CITY.
- B. In no event shall the CONSULTANT subcontract work in excess of 50% of the contract amount, excluding specialized services. Specialized services are those items not ordinarily furnished by a consultant performing the particular type of project.
- C. All subcontracts exceeding \$25,000 shall contain all provisions required of the prime contract.

IX. INDEPENDENT CONTRACTOR

In the performance of the services herein provided for, the CONSULTANT shall be, and is, an independent contractor and is not an agent or employee of the CITY. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder. The CONSULTANT shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

X. SPECIFICATIONS

All specifications, manuals, standards, etc., either attached to this Agreement or incorporated by reference, are binding as to the performance of the work specified in this Agreement unless they are changed by written amendment to this Agreement modified in writing to incorporate such changes.

XI. DOCUMENTS/DATA

- A. Ownership of Documents: All original papers and documents, produced as a result of this Agreement, shall become the property of the CITY. In addition, CITY shall be provided with access and use of any other papers and documents consistent with the purpose and scope of services covered by this Agreement. Any additional copies, not otherwise provided for herein, shall be the responsibility of the CITY.

Documents, including drawings and specifications, prepared by CONSULTANT pursuant to this Agreement, are not intended or represented to be suitable for reuse by CITY or others on extensions of the PROJECT or on any other project. Any use of the completed documents for other projects and any use of incomplete documents without the specific written authorization from CONSULTANT will be at CITY's sole risk and without liability to CONSULTANT. Further, any and all liability arising out of changes made to CONSULTANT's deliverables under this Agreement by CITY or persons other than CONSULTANT is waived as against CONSULTANT, and the CITY assumes full responsibility for such changes unless the CITY has given CONSULTANT prior notice and has received from CONSULTANT written consent for such changes.

- B. Publication: No report, information, or other data given or prepared or assembled by the CONSULTANT pursuant to this Agreement, shall be made available to any individual or organization by the CONSULTANT without the prior written approval of the CITY. Notwithstanding the foregoing, however, the CONSULTANT shall not be required to protect or hold in confidence and confidential information which (1) is or becomes available to the public with the prior written consent of the CITY; (2) must be disclosed to comply with law; or (3) must be disclosed in connection with any legal proceedings.
- D. Copyrights: The CONSULTANT shall be free to copyright material developed under this Agreement with the provision that the CITY (and any funding agency) be given a nonexclusive

and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material for government or public purposes.

- E. Patent Rights: Applicable patent rights provisions described in 41 CFR 1-9.1 regarding rights to inventions shall apply to this agreement.

XII. INDEMNIFICATION AND INSURANCE

- A. As respects acts, errors, or omissions in the performance of professional services, CONSULTANT agrees to indemnify and hold harmless CITY, its elected and appointed officers, employees, and CITY designated volunteers from and against any and all claims, demands, defense costs, liability or consequential damages of any kind or nature arising directly out of CONSULTANT's negligent acts, errors or omissions in the performance of his/her professional services under the terms of this Agreement.
- B. As respects all acts or omissions which do not arise directly out of the performance of professional services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, CONSULTANT agrees to indemnify, defend (at CITY's option), and hold harmless CITY, its elected and appointed officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, defense costs, liability, or consequential damages of any kind or nature arising out of or in connection with CONSULTANT's (or CONSULTANT's subconsultants, if any) performance or failure to perform, under the terms of this Agreement; excepting those which arise out of the sole negligence of CITY.
- C. Without limiting CITY's right to indemnification, it is agreed that CONSULTANT shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:
 - 1. Workers' compensation insurance as required by California statutes.
 - 2. Commercial general liability insurance with a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence. Such insurance shall include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products and Completed Operations Liability, Broad Form Property Damage (if applicable), Independent Consultant's Liability (if applicable).
 - 3. Professional liability insurance coverage, in an amount not less than One Million Dollars (\$1,000,000). CONSULTANT shall maintain such coverage for at least four (4) years from the termination of this Agreement. During this four (4) year period, CONSULTANT shall use CONSULTANT'S best efforts to ensure that there is no change of the retroactive date on this insurance coverage.
 - 4. Comprehensive Automobile Liability coverage with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.

D. CITY'S Risk Manager is hereby authorized to reduce the requirements set forth above in the event he/she determines that such reduction is in the CITY'S best interest.

E. Each insurance policy required by this Agreement shall contain the following clause:

"This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City Clerk, City of Kingsburg, 1401 Draper Street, Kingsburg, CA 93631."

In addition, the commercial general liability and comprehensive automobile liability policies required by this Agreement shall contain the following clauses:

"It is agreed that any insurance maintained by the City of Kingsburg shall apply in excess of and not contribute with insurance provided by this policy."

"The City of Kingsburg, its officers, agents, employees, representatives and volunteers are added as additional insured as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Kingsburg."

F. Prior to commencing any work under this Agreement, CONSULTANT shall deliver to CITY insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above. Within thirty (30) days of the execution date of this Agreement, CONSULTANT shall provide to CITY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title. Should it be deemed necessary by CITY, it shall be CONSULTANT's responsibility to see that CITY receives documentation acceptable to CITY which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company. CITY has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.

G. In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or
2. Order CONSULTANT to stop work under this Agreement and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof; or
3. Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies CITY may have and is not the exclusive remedy for CONSULTANT's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT's or its subconsultant's performance of the work covered under this Agreement.

XIII. NON-DISCRIMINATION

CONSULTANT and all subconsultants shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement.

XIV. MISCELLANEOUS PROVISIONS

- A. Asbestos and Hazardous Materials: In providing its services hereunder, CONSULTANT shall not be responsible for identification, handling, containment, abatement, or in any other respect, for any asbestos or hazardous material if such is present in connection with the PROJECT. In the event the CITY becomes aware of the presence of asbestos or hazardous material at the jobsite, CITY shall be responsible for complying with all applicable federal and state rules and regulations, and shall immediately notify CONSULTANT, who shall then be entitled to cease any of its services that may be affected by such presence, without liability to CONSULTANT arising there from.
- B. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- C. Prohibition of Assignment: Neither the CITY nor CONSULTANT shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.
- D. Dispute/Governing Law: Any dispute not resolvable by informal arbitration between the parties to this Agreement shall be adjudicated in a Court of Law under the laws of the State of California.
- E. Notices: Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONSULTANT, or if sent via the United States Postal Service, postage prepaid, addressed as follows:

CITY OF KINGSBURG:
1401 Draper Street
Kingsburg, CA 93631
Attention: City Clerk

CONSULTANT:

Attention: _____

- F. Jurisdiction/Venue/Waiver Of Removal: This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement

shall be in that State. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Kingsburg County, California. The CONSULTANT hereby expressly waives any right to remove any action to a county other than Kingsburg County as permitted pursuant to Section 394 of the California Code of Civil Procedure.

- G. Integration/Modification: This Agreement and each of the exhibits referenced herein, which are incorporated by reference, represents the entire understanding of the CITY and the CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the CITY and the CONSULTANT.
- H. Conflict With Law: If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.
- I. Attorney's Fees: In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court or arbitrator, shall be entitled to recovery of its attorney's fees and court costs incurred in the action brought thereon.
- J. Construction: This Agreement is the product of negotiation and compromise on the part of each party and the parties agree, notwithstanding Civil Code Section 1654 that in the event of uncertainty the language will not be construed against the party causing the uncertainty to exist.
- K. Authority: Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the party to which its signature represents.
- L. Headings: Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions there under.

XV. ADDITIONAL MISCELLANEOUS PROVISIONS

- A. Record Retention: The City, State, or their duly authorized representatives shall have access to any documents, books, papers, and records of the consultant (which are directly pertinent to the project) for the purpose of making an audit, examination, excerpts, and transcripts. The consultant shall maintain all required records for at least three (3) years after final payment on the project and all pending matters are closed. This also applies to all subcontracts in excess of \$25,000.
- B. Cost Principles: Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., are the governing factors regarding allowable elements of cost. Administrative requirements are set forth in 49 CFR, Part 18 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. This also applies to all subcontracts in excess of \$25,000.

- C. Changes in Work: If changes in scope, character, or complexity become desirable or necessary as work progresses, adjustments to the agreement may be made in writing signed by the CITY and CONSULTANT. In special cases, where it is essential that extra work be performed immediately, execution of the supplemental agreement covering the changes will be accomplished as soon as possible. This agreement shall provide for the preparation and submittal of contract change orders when applicable. There shall be no charge to the City when the change order is required to correct errors or omissions by the Service Provider
- D. General Compliance with Laws and Wage Rates: CONSULTANT shall be required to comply with all federal, state, and local laws and ordinances applicable to the work. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code, Section 1775.
- E. Compliance with the Copland “Anti-Kickback” Act (18 USC 874): CONSULTANT is prohibited from inducing, by any means, any person involved in the construction, completion, or repair of public work, to give up any part of the compensation to which he/she is otherwise entitled (all suspected or reported violations shall be reported to the City).
- F. Consultant’s Endorsement: The responsible CONSULTANT shall sign plans, specifications, and estimates and engineering data furnished by him/her and where appropriate, indicate his/her California engineering registration number.
- G. Clean Air and Water: Applicable to Contracts in Excess of \$100,000.
- a. Definition. “Facility” means an building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by the Consultant or and subconsultant, used in the performance of the Contract or any subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the United States Environmental Protection Agency (EPA) determines that independent facilities are collocated in one geographical area.
- b. In compliance with regulations issued by the EPA, 2 C.F.R, part 1532, pursuant to the Clean Air Act, as amended (42 U.S.C. §. 7401 *et seq.*); the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 *et seq.*); and Executive Order 11738, the Consultant agrees to:
1. Not utilize any facility in the performance of this contract or any subcontract which is listed on the EPA List of Violating Facilities pursuant to 2 C.F.R. part 1532 for the duration of time that the facility remains on the list;
 2. Promptly notify the Owner if a facility the Consultant intends to use in the performance of this contract is on the EPA List of Violating Facilities of the Consultant knows that it has been recommended to be placed on the List;
 3. Comply with all requirements of the Clean Air Act and the Federal Water Pollution Control Act, including the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution control Act, and all applicable clean air and clean water standards.
- H. Equal Employment Opportunity:

The Consultant shall be required to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

- a. The Recipient hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R. chapter 60, the following equal opportunity clause:

During the performance of this contract, the Consultant agrees as follows:

1. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Consultant agrees to post in conspicuous places available to employees and applicants for employment notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers representatives of the Consultant's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and pursuant to rules, regulations, and orders of the Secretary of Labor and will permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Consultant's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations or order of the Secretary of Labor, or as otherwise provided by law.
7. The Consultant will include the portion of the sentence immediately preceding paragraph 17(a) (1) and the provisions of paragraphs 17(a)(1) through (6) in every

subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subconsultant or vendor. The Consultant will take such action with respect to any subcontract or purchase order as EDA or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in or is threatened with litigation with or by a subconsultant or vendor as a result of such direction by the Secretary of Labor, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

8. The Recipient further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally-assisted construction work. Provided, however, that if the Recipient so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government that does not participate in work on or under the Contract.
9. The Recipient agrees that it will assist and cooperate actively with the Secretary of Labor in obtaining the compliance of consultants and subconsultants with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist in securing compliance.
10. The Recipient further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Consultant debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon consultants and subconsultants by the Secretary of Labor pursuant to Part II, Subpart D of the Executive order.

b. Exemptions to Above Equal Opportunity Clause (41 C.F.R. chapter 60):

1. Contracts and subcontracts not exceeding \$10,000 (other than Government bills of lading) are exempt. The amount of the Contract, rather than the amount of the federal financial assistance, shall govern in determining the applicability of this exemption.
2. Except in the case of subconsultants for the performance of construction work at the site of construction, the clause shall not be required to be inserted in subcontracts below the second tier.
3. Contracts and subcontracts not exceeding \$10,000 for standard commercial supplies or raw materials are exempt.

I. Monthly Reporting: The Contractor/Consultant shall submit a report on a monthly basis to the City covering the general progress of the job and describing any problems or factors being experienced.

J. Federal Non-Discrimination Statutes:

The Service Provider must comply with all Federal statutes relating to non-discrimination. These include but are not limited to:

1. Title VI of the Civil Rights Act of 1964 (P.L.88-352) which prohibits discrimination on the basis of race, color, or national origin;
2. Section 112 of PL 92-45 and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686) which prohibits discrimination on the basis of sex;
3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C.794) which prohibits discrimination on the basis of handicaps;
4. The Age Discrimination Act of 1975, as amended (42 U.S.C.6101-6107) which prohibits discrimination because of age;
5. The Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended, relating to non-discrimination on the basis of drug abuse;
6. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L.91-616), as amended, relating to non-discrimination on the basis of alcohol abuse or alcoholism;
7. Sections 523 and 527 of the Public Health Service Act of 1912 (42U.S.C. 290 dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
8. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et. seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing;
9. Any other non-discrimination provisions in the specific statute(s) under which the application for Federal assistance is being made; and
10. The requirements of any other non-discrimination statute(s) which may apply.

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

CITY OF KINGSBURG:

CONSULTANT:

City Manager

Attest:

City Clerk

Approved as to Form:

City Attorney

Attachments:

Exhibit "A": Scope of Work

Exhibit "B": Project Fees

Exhibit "C": Schedule of Fees for Professional Services

Exhibit "D": Progress Payment Schedule

APPENDIX A

Required Local Assistance Procedures Manual Exhibits

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

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

Note: Mark-ups are Not Allowed

Consultant _____ Prime Consultant Subconsultant 2nd Tier Subconsultant

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

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

Fee	=	%
-----	---	---

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Avg. Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From	To			
John Doe – Project Manager * Civil Engineer II	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Sue Jones – Construction Engineer/Inspector Engineer I	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Buddy Black – Claims Engineer Engineer III	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Land Surveyor **	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	\$00 - \$00
Technician	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	\$00 - \$00

(Add pages as necessary)

NOTES:

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

EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3

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

Consultant _____ Prime Consultant Subconsultant

Project No. _____ Contract No. _____ Date _____

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

Note: Add additional pages if necessary.

NOTES:

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

7. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
8. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is its standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.
9. The cost proposal format shall not be amended. All costs must comply with the Federal cost principles.
10. Add additional pages if necessary.
11. Subconsultants must provide their own cost proposals.

EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

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

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

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

Prime Consultant or Subconsultant Certifying:

Name: _____ Title *: _____

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

Email: _____ Phone Number: _____

Address: _____

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

List services the consultant is providing under the proposed contract:

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 8%

OR

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

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

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

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

4. DBE PARTICIPATION GENERAL INFORMATION

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

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

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

5. RESOURCES

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

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

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

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

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

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

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

(Note: If a Safe Harbor Indirect Cost Rate is approved, this form is not required.)

Consultant's Full Legal Name: _____

Important: Consultant means the individual or consultant providing engineering and design related services as a party of a contract with a recipient or sub-recipient of Federal assistance. Therefore, the Indirect Cost Rate(s) shall not be combined with its parent company or subsidiaries.

Indirect Cost Rate:

Combined Rate _____ % **OR**

Home Office Rate _____% and Field Office Rate (if applicable) _____%

Facilities Capital Cost of Money _____% (if applicable)

Fiscal period * _____

* Fiscal period is annual one year applicable accounting period that the Indirect Cost Rate was developed (not the contract period). The Indirect Cost Rate is based on the consultant's one-year applicable accounting period for which financial statements are regularly prepared by the consultant.

I have reviewed the proposal to establish an Indirect Cost Rate(s) for the **fiscal period** as specified above and have determined to the best of my knowledge and belief that:

- All costs included in the cost proposal to establish the indirect cost rate(s) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) 48, Code of Federal Regulations (CFR), Chapter 1, Part 31 (48 CFR Part 31);
- The cost proposal does not include any costs which are expressly unallowable under the cost principles of 48 CFR Part 31;
- The accounting treatment and billing of prevailing wage delta costs are consistent with our prevailing wage policy as either direct labor, indirect costs, or other direct costs on all federally-funded A&E Consultant Contracts.
- All known material transactions or events that have occurred subsequent to year-end affecting the consultant's ownership, organization, and indirect cost rates have been disclosed as of the date of this certification.

I am providing the required and applicable documents as instructed on Exhibit 10-A.

Financial Management System:

Our labor charging, job costing, and accounting systems meet the standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred, appropriately accounted for, are allocable to the contract, and comply with the federal requirements as set forth in [Title 23 United States Code \(U.S.C.\) Section 112\(b\)\(2\); 48 CFR Part 31.201-2\(d\); 23 CFR, Chapter 1, Part 172.11\(a\)\(2\)](#); and all applicable state and federal rules and regulations.

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost

accounts;

- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;
- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR;
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirement

Cost Reimbursements on Contracts:

I also understand that failure to comply with 48 CFR Part 16.301-3 or knowingly charge unallowable costs to Federal-Aid Highway Program (FAHP) contracts may result in possible penalties and sanctions as provided by the following:

- Sanctions and Penalties - [23 CFR Part 172.11\(c\)\(4\)](#)
- False Claims Act - [Title 31 U.S.C. Sections 3729-3733](#)
- Statements or entries generally - [Title 18 U.S.C. Section 1001](#)
- Major Fraud Act - [Title 18 U.S.C. Section 1031](#)

All A&E Contract Information:

- Total participation amount \$ _____ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is _____.
- Years of consultant’s experience with 48 CFR Part 31 is _____.
- Audit history of the consultant’s current and prior years (if applicable)

<input type="checkbox"/> Cognizant ICR Audit	<input type="checkbox"/> Local Gov’t ICR Audit	<input type="checkbox"/> Caltrans ICR Audit
<input type="checkbox"/> CPA ICR Audit	<input type="checkbox"/> Federal Gov’t ICR Audit	

I, the undersigned, certify all of the above to the best of my knowledge and belief and that I have reviewed the Indirect Cost Rate Schedule to determine that any costs which are expressly unallowable under the Federal cost principles have been removed and comply with [Title 23 U.S.C. Section 112\(b\)\(2\)](#), [48 CFR Part 31](#), [23 CFR Part 172](#), and all applicable state and federal rules and regulations. I also certify that I understand that all documentation of compliance must be retained by the consultant. I hereby acknowledge that costs that are noncompliant with the federal and state requirements are not eligible for reimbursement and must be returned to Caltrans.

Name**: _____ Title**: _____

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

Email**: _____ Phone Number**: _____

**An individual executive or financial officer of the consultant’s or subconsultant’s organization at a level no lower than a Vice President, a Chief Financial Officer, or equivalent, who has authority to represent the financial information used to establish the indirect cost rate.

Note: ***Both prime and subconsultants as parties of a contract must complete their own Exhibit 10-K forms. Caltrans will not process local agency’s invoices until a complete Exhibit 10-K form is accepted and approved by Caltrans Audits and Investigations.***

Distribution: 1) Original - Local Agency Project File
 2) Copy - Consultant
 3) Copy - Caltrans Audits and Investigations

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	%
17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.	IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.		
_____ 20. Local Agency Representative's Signature 21. Date			
_____ 22. Local Agency Representative's Name 23. Phone			
_____ 24. Local Agency Representative's Title			
		_____ 12. Preparer's Signature	_____ 13. Date
		_____ 14. Preparer's Name	_____ 15. Phone
		_____ 16. Preparer's Title	

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENTCONSULTANT SECTION

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 8. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 10. DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 11. Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 12. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 13. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 14. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 15. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 16. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 17. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 18. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 19. Proposed Contract Execution Date** - Enter the proposed contract execution date.
- 20. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 21. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 23. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 24. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE: 7. Total Contract Award Amount: _____
 8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Local Agency to Complete this Section			\$
20. Local Agency Contract Number: _____ 21. Federal-Aid Project Number: _____ 22. Contract Execution Date: _____			%
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			14. TOTAL CLAIMED DBE PARTICIPATION
IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.			
_____ 23. Local Agency Representative's Signature		_____ 24. Date	_____ 15. Preparer's Signature
_____ 25. Local Agency Representative's Name		_____ 26. Phone	_____ 16. Date
_____ 27. Local Agency Representative's Title			_____ 17. Preparer's Name
			_____ 18. Phone
			_____ 19. Preparer's Title

DISTRIBUTION: 1. Original – Local Agency
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENTCONSULTANT SECTION

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
- 8. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 9. Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 10. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 12. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 13. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 14. Total Claimed DBE Participation - \$:** Enter the total dollar amounts entered in the "DBE Dollar Amount" column. **%:** Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 15. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 16. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 17. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 18. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 19. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial <input type="checkbox"/> b. material change</p> <p>For Material Change Only: year ____ quarter ____ date of last report _____</p>
<p>4. Name and Address of Reporting Entity</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known</p> <p>Congressional District, if known _____</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, if known _____</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p>	
<p>10. Name and Address of Lobby Entity</p>	<p>11. Individuals Performing Services</p>	
(attach Continuation Sheet(s) if necessary)		
<p>12. Amount of Payment (check all that apply)</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>14. Type of Payment (check all that apply)</p> <p><input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____</p>	
<p>13. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____</p>		
<p>15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:</p>		
<p>16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/> (attach Continuation Sheet(s) if necessary)</p>		
<p>17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>		
<p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p>		
<p>Authorized for Local Reproduction Standard Form - LLL</p>		
<p>Federal Use Only:</p>		

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to: subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant. or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
11. Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04