



REQUEST FOR PROPOSALS

PROFESSIONAL CONSTRUCTION MATERIALS AND SOILS TESTING SERVICES

RFP NO. 15-456

CITY OF NORWALK
Engineering Division
12700 Norwalk Boulevard, Room 12
Norwalk, CA 90650
(562) 929-5723

Key RFP Dates

| | |
|--------------------|-------------------------|
| Issued: | February 26, 2015 |
| Written Questions: | March 12, 2015, 11 a.m. |
| Proposals Due: | March 26, 2015, 5 p.m. |

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SECTION I

INSTRUCTIONS TO OFFERORS

SECTION I - INSTRUCTIONS TO OFFERORS

A. EXAMINATION OF PROPOSAL DOCUMENTS

By submitting a proposal, Offeror represents that it has thoroughly examined and become familiar with the work required in this RFP and that it is capable of performing quality work to achieve the objectives of the City of Norwalk Engineering Division.

B. ADDENDA

Any City of Norwalk changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into the terms and conditions of any resulting Agreement. The City of Norwalk will not be bound to any modifications or deviations from the requirements set forth in this RFP as the result of oral instructions. Offerors shall acknowledge receipt of addenda in their proposals. Failure to acknowledge receipt of all addenda may cause a proposal to be deemed non-responsive.

C. CITY CONTACT

All questions and/or inquiries regarding this RFP shall be submitted in writing and directed to:

William Zimmerman
Interim City Engineer
City of Norwalk
12700 Norwalk Boulevard, Room 12
Norwalk, California 90650
Phone: (562) 929-5926
Fax: (562) 929-5503
E-mail: bwzimmerman@norwalkca.gov

D. CLARIFICATIONS

1. Examination of Documents

Should an Offeror require clarifications regarding the RFP, the Offerer shall notify William Zimmerman of the City of Norwalk Engineering Division in writing in accordance with Section I.D.2. Should it be found that the point in question is not clearly and fully set forth in the RFP, the City of Norwalk will issue a written addendum clarifying the matter(s). The written addendum will be sent to all firms via e-mail (advance copy) and/or fax.

2. Submitting Requests

a. All questions must be submitted in writing to the City of Norwalk no later than 11 a.m. on March 12, 2015.

b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions Re: "RFP for Professional Construction Materials and Soils Testing Services." The City of Norwalk is not responsible for failure to respond to a request that has not been labeled as such.

c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:

(1) U.S. Mail or Personal Courier: Attention: William Zimmerman, Interim City Engineer, City of Norwalk, 12700 Norwalk Boulevard, Room 12, Norwalk, CA 90650.

(2) Facsimile: The City of Norwalk's fax number is (562) 929-5584, attention: William Zimmerman.

(3) E-mail: bzimmerman@norwalkca.gov

3. City of Norwalk Responses

Responses from the City of Norwalk will be e-mailed and/or faxed to all listed Offerors no later than 5:00 p.m. on March 19, 2015.

E. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be submitted on or before **5:00 p.m. on March 26, 2015**. Proposals received after the above-specified date and time will be returned to Offerors unopened.

2. Address

Proposals delivered in person or by the U.S. Postal Service shall be submitted to the following address:

William Zimmerman
Interim City Engineer
City of Norwalk
12700 Norwalk Boulevard, Room 12
Norwalk, California 90650

3. Identification of Proposals

Offeror shall submit 1 original and 3 copies of its proposal in a sealed package, addressed as shown above, bearing the Offeror's name and address and clearly marked as follows:

"PROPOSAL FOR PROFESSIONAL CONSTRUCTION MATERIALS AND SOILS TESTING SERVICES"

4. Acceptance of Proposals

- a. The City reserves the right to accept or reject any or all proposals, waive any informalities or irregularities in the proposals, request additional information or revisions to the proposals, and to negotiate with any or all Offerors.
- b. The City of Norwalk reserves the right to withdraw this RFP at any time without prior notice and the City of Norwalk makes no representations that any contract will be awarded to any Offeror responding to this RFP. .
- c. The City of Norwalk reserves the right to postpone the proposal opening for its own convenience.
- d. The City of Norwalk reserves the right to issue a new RFP for the work.
- e. Proposals received by the City of Norwalk are subject to public inspection under the California Public Records Act (Government Code Section 6250 *et seq.*), unless exempt and will be made available upon request after award.
- f. Proposals submitted are not to be copyrighted.
- g. The City of Norwalk reserves the right to require confirmation of information furnished by any Offeror and/or request any Offeror to provide additional evidence of qualifications to successfully perform the work.

F. PRE-CONTRACTUAL EXPENSES

The City of Norwalk shall not, in any event, be liable for any pre-contractual expense incurred by Offeror in the preparation of its proposal. Pre-contractual expenses are defined as expenses incurred by Offeror in:

- 1. Preparing its proposal in response to this RFP
- 2. Submitting its proposal to the City of Norwalk
- 3. Negotiating with the City of Norwalk on any matter related to its proposal
- 4. Any other expenses incurred by Offerer prior to date of award

G. JOINT OFFERS

Where two or more Offerors desire to submit a single proposal in response to this RFP, they shall do so on a prime-sub-consultant basis rather than as a joint venture. The City of Norwalk intends to contract with a single firm and not with multiple firms doing business as a joint venture.

H. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be on a not-to-exceed price contract.

I. PREVAILING WAGES

Certain labor categories under this project may be subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 *et. seq.* These labor categories when employed for any work on or in the execution of a "Public Works" project require payment of prevailing wages.

Wage guidelines entitled, *Consultant Guidelines for Prevailing Wage and Labor Compliance on Architectural and Engineering (A&E) Contracts* is used to administer Caltrans Consultant contracts and is available at:

[http://www.dot.ca.gov/hg/construc/ A&E Guidelines/ A&EGuidelines.pdf](http://www.dot.ca.gov/hg/construc/A&E%20Guidelines/A&EGuidelines.pdf)

Wage information is available through the Caltrans Division of Local Assistance web site at:

http://www.dir.ca.gov/dlsr/statistics_research.html

The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the "Related Acts," under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance. The Davis-Bacon wages can be found at: <http://www.wdol.gov>

SECTION II

PROPOSAL CONTENT

SECTION II - PROPOSAL CONTENT

A. PRESENTATION

Offerors must submit 1 original and 3 copies of their proposals, along with an electronic version (Or USB flash drive), on or before **5:00 p.m.** on **March 26, 2015** to be considered.

Proposals shall be typed and submitted on 8 1/2" x 11 " size paper **ONLY** and 12pt font size, using a single method of fastening. Offerors should not include any unnecessarily elaborate promotional material. Lengthy narrative is discouraged and proposals should be brief, clear and concise. Proposals are limited to 30 pages maximum (total number of pages).

B. LETTER OF TRANSMITTAL

A Letter of Transmittal shall be addressed to William Zimmerman, Interim City Engineer, and must, at a minimum, contain the following information:

1. Identification of Offeror who will have contractual responsibility with the City of Norwalk. Identification shall include legal name of company, corporate address, telephone number and email address of the contact person identified during the period of proposal evaluation.
2. Proposed working relationship between Offeror and sub-consultants, if applicable.
3. Acknowledgment of receipt of all addenda, if any.
4. A statement to the effect that the proposal shall remain valid for a period of not less than 60 days from the date of submittal.
5. Signature of the official authorized to bind Offeror to the terms of the proposal.
6. Signed statement attesting that all information submitted with the proposal is true and correct.

C. TECHNICAL PROPOSAL

1. Qualifications, Relevant Experience and References

This section of the proposal shall establish the ability of the Offeror to satisfactorily perform the required work by reasons of: experience in performing work of a similar nature to the Scope of Work shown in Section III; proven competence in the services to be provided; strength and stability of the firm; staffing capability; current work load; track record of meeting schedules on similar projects and supportive client references.

The Offeror shall:

- (a) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, or sole proprietorship); number, size and location of offices; and total number of employees.
- (b) Provide a general description of the firm's financial condition and identify any conditions (e.g. bankruptcy, pending litigation, planned office closures, impending merger, etc.) that may impede the Offeror's ability to provide these services.
- (c) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to the City.
- (d) Describe specialized training, experience and professional competence in the area directly related to this RFP.
- (e) Identify sub-consultants by company name, address, contact person, telephone number and project function, if applicable. The list should include a summary of the roles and responsibilities of each sub-consultant.
- (f) Provide a minimum of five (5) references for completed work similar to that in scope of work contained in this RFP. Furnish the contact name, title, address and telephone number of the person at each client agency/organization who is most knowledgeable about the work performed.

2. Proposed Team

This section of the proposal shall establish the method that will be used by the Offeror to provide requested services as well as identify key personnel assigned.

The Offeror shall:

- (a) Provide the education, training, experience and applicable professional credentials of the proposed Project Manager.
- (b) Furnish brief résumés (two pages maximum per résumé) for the proposed Project Manager and key personnel (including sub-consultants).
- (c) Identify key personnel proposed to perform the specified tasks and include major areas of sub-consultant work.
- (d) Include a statement that key personnel will be available to the extent proposed for the duration of the required services acknowledging that no person designated as "key"

shall be removed or replaced without the prior written concurrence of the City of Norwalk.

3. Detailed Work Plan

The Offeror shall provide a narrative addressing the Scope of Work and demonstrating the Offeror's understanding of the City of Norwalk's needs and requirements.

The Offeror shall:

(a) Describe the proposed approach and work plan for completing the services specified in the Scope of Work. The description of the proposed approach shall discuss the services in sufficient detail to demonstrate the Offeror's ability to accomplish the City's objectives.

(b) Describe approach to managing resources, including a description of the role(s) of any subconsultants, if applicable, their specific responsibilities, and how their work will be supervised. Identify methods that Offeror will use to ensure quality, budget, and schedule control.

4. Exceptions and Deviations

State any exceptions or deviations from the requirements of this RFP, segregating "technical" exceptions from "contractual" exceptions. Where the Offeror wishes to propose alternative approaches to meeting the City of Norwalk's technical or contractual requirements, these shall be thoroughly explained. If no contractual exceptions are noted, Offeror will be deemed to have accepted the contract requirements as set forth in Section VI, "Proposed Agreement."

5. Fee Proposal

Fee Proposal (Schedule of Hourly Rates) shall be submitted in a separately sealed envelope. The Schedule of Hourly Rates shall include all anticipated non-labor costs necessary for testing.

6. Conflict of Interest Disclaimer

Complete and submit Section VII, "Conflict of Interest Disclaimer" Form with the proposal.

7. Acknowledgement of Insurance Requirements

Complete and submit Section VIII, "Acknowledgement of Insurance Requirements" Form with the proposal.

8. Disadvantaged Business Enterprise (DBE) Requirements

The City of Norwalk has determined that Disadvantaged Business Enterprises (DBEs) can reasonably be expected to compete for subcontracting opportunities on this project. Offerors shall comply with the California Department of Transportation's (Caltrans) DBE Program guidelines as outlined in the Local Assistance Procedures Manual (LAPM).

Section IX, "DBE Requirements," includes the following forms for reference:

- Notice to Proposers DBE Information (Exhibit 10-I)
- Standard Agreement for Subcontractor/DBE Participation (Exhibit 10-J)
- Local Agency Proposer UDBE Commitment (Consultant Contracts) (Exhibit 10-01)
- Local Agency Proposer DBE Information (Consultant Contracts) (Exhibit 10-02)
- Final Report-Utilization of DBE, First Tier Subcontractors (Exhibit 17-F)

The City of Norwalk has established an Underutilized goal for this Agreement of 4.6%.

9. Federal Lobbying Restrictions, Title 31 U.S.C. Section 1352

Complete and submit Section X, "Non-Lobbying Certification for Federal-aid Contracts (Exhibit 10-P) and Disclosure of Lobbying Activities (Exhibit 10-Q)" with the proposal.

10. Appendices

Information considered by Offeror to be pertinent to this RFP and which has not been specifically solicited in any of the aforementioned sections may be placed in a separate appendix section. Offerors are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous materials. Appendices shall be relevant and brief.

SECTION III

SCOPE OF WORK

SECTION III - SCOPE OF WORK

A. WORK DEFINITION

Services shall include providing construction materials and soils acceptance and independent assurance testing services for road rehabilitation projects in the City of Norwalk. These rehabilitation projects shall include constructing Americans with Disabilities Act (ADA) compliant curb access ramps, pavement grinding, removal, and replacement of failed AC pavement, and placement of ARHM overlays.

B. SCOPE OF SERVICES

Services shall include, but are not limited to:

Acceptance Testing (AT) Services

1. Collecting concrete samples and testing their strength.
2. Checking subgrade compaction for concrete and asphalt construction.
3. Perform tests for sieve analysis, sand equivalent, and cleanness, as needed.
4. Checking compaction of asphalt pavement and overlays.
5. Performing plant inspection at facilities supplying concrete and hot mix asphalt.
6. Provide test results to the City.
7. Provide summary report of testing results.
8. Perform testing and sampling according to the City's Quality Assurance Plan (QAP) and Caltrans procedures.

Independent Assurance Program (IAP) Testing Services

1. Verify that sampling and testing procedures are being performed properly and in accordance with the City's QAP and Caltrans procedures.
2. Verify certifications of samplers and testers.
3. Perform split sample tests as necessary.
4. Maintain witness test records.
5. Verify that all testing equipment used for acceptance testing is in good condition and properly calibrated.
6. Verify that all plant inspections are being performed correctly by qualified testers.
7. Provide summary report of quality assurance results.
8. Perform such other similar and related tasks as may be assigned by the City Engineer.

C. REQUIRED LICENSES AND CERTIFICATES

The laboratory performing the construction materials and soils testing and all samplers and testers must possess valid certifications as may be required by law and by Caltrans.

SECTION IV
PROJECT SCHEDULE

SECTION IV - PROJECT SCHEDULE

The following proposed project schedule is provided for reference only:

| | |
|---|-------------------------|
| Send out RFP | February 26, 2015 |
| Deadline for Written Questions | March 12, 2015, 11 a.m. |
| Written Response from City (if necessary) | March 19, 2015, 5 p.m. |
| Proposals due | March 26, 2015, 5 p.m. |
| Interviews | Week of April 6, 2015 |
| Council Meeting | April 21, 2015 |
| Agreement Start Date | July 1, 2015 |

SECTION V

EVALUATION AND AWARD

SECTION V - EVALUATION AND AWARD

A. EVALUATION CRITERIA

The City of Norwalk will review and evaluate the proposals based on the following criteria:

1. Qualifications of the Firm

Technical experience in performing work of a similar nature; experience working with public agencies; strength and stability of the firm; and assessment by client references.

2. Proposed Team and Organization

Qualifications of proposed Civil Engineer and key personnel; logic of organization; and adequacy of labor commitment and resources to satisfactorily perform the requested services and meet the City's needs.

3. Detailed Work Plan

Thorough understanding of the City's requirements and objectives; logic, clarity, specificity, and overall quality of work plan.

4. Fee Proposal

Reasonableness of pricing and competitiveness of the amount compared with other proposals.

B. EVALUATION PROCEDURE

An Evaluation Committee will be appointed to review all proposals. The Committee will be comprised of City staff and may include outside personnel. The Committee members will review and evaluate the proposals. The Committee will recommend to the Director of Public Services the firm whose proposal is most advantageous to the City of Norwalk. The Director of Public Services will then forward his recommendation to the City Council for final action.

C. AWARD

The City of Norwalk may negotiate contract terms with the selected Offeror prior to award, and expressly reserves the right to negotiate with several Offerors simultaneously. However, since the selection and award may be made without discussion with any Offeror, the proposal submitted should contain Offeror's most favorable terms and conditions.

D. NOTIFICATION OF AWARD

Offerors who submit a proposal in response to this RFP shall be notified by mail regarding the firm who was awarded the contract. Such notification shall be made within seven (7) days of the date of contract award.

SECTION VI
PROPOSED AGREEMENT

PROPOSED AGREEMENT

**AGREEMENT FOR
PROFESSIONAL SERVICES**
(City of Norwalk)

This Professional Services Agreement is dated _____, 2015, and is between the City of Norwalk, a municipal corporation (“City”) and *Company name*, a _____ corporation (“Consultant”).

R E C I T A L S

A. City desires to utilize the services of Consultant as an independent contractor to provide professional _____ services.

B. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Consultant and Consultant desires to serve City to perform these services subject to the terms contained herein.

The parties therefore agree as follows:

1. Consultant’s Services.

1.1 Scope of Services. Consultant shall provide professional _____ services and related services, as more particularly described in Exhibit B.

1.2 Personnel. Consultant has, or shall secure at its own expense, all personnel required to perform the services under this Agreement. All of the services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

1.3 Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the “City Representative”). For the purposes of this Agreement, the Consultant Representative shall be Consultant’s Name, Consultant’s Title (the “Consultant Representative”).

1.4 Time of Performance. Consultant shall commence the services contemplated under this Agreement immediately upon receipt of a notice to proceed from the City Representative. Consultant shall perform and complete each task identified in Exhibit B by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

2. Term of Agreement. The term of this Agreement shall be from _____ through _____, unless extended or sooner terminated as provided in Section 13 herein. The City Manager may extend this Agreement for _____ (____) additional one-year terms based upon the same terms and conditions set forth herein.

3. Compensation. As full compensation for Consultant's services provided under this Agreement, and subject to the maximum amount of compensation hereafter provided, City shall pay Consultant in accordance with the rates set forth in Exhibit C. The maximum amount of compensation that City shall pay Consultant pursuant to this Agreement is _____ Dollars (\$_____._____) for the term set forth in Section 2. City shall not withhold federal payroll, state payroll and other taxes, or other similar deductions from each payment made to Consultant. City shall not allow any claims for additional services performed by Consultant, including the performance of the optional tasks identified in Exhibit B, unless the City Council authorizes the additional services in writing prior to Consultant's performance of the additional services or the incurrence of additional expenses. Any additional services authorized by the City Council shall be compensated at the hourly rates set forth in Exhibit C, or, if not specified, at a rate mutually agreed to by the parties.

4. Method of Payment.

4.1 Invoices. Not later than the fifteenth (15th) day of each month, Consultant shall submit to City detailed invoices for all services performed and expenses incurred, if any, pursuant to this Agreement during the prior month. The invoices shall describe in detail the services performed during the period and shall list the days and hours worked, the hourly rates charged, milestone achievements, tasks performed or completed, and the services performed for each day in the period. City shall review the invoices and notify Consultant in writing within ten (10) business days of any disputed amounts.

4.2 Payment. City shall pay all undisputed portions of the invoices within thirty (30) calendar days after receipt up to the maximum amount of compensation specified in Section 3 of this Agreement.

4.3 Audit of Records. Upon City providing 24-hour prior notice, Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement available during Consultant's regular working hours to City for review and audit by City.

5. Standard of Performance. Consultant shall perform all services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

6. Ownership of Work Product. All reports, documents or other written material developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination

by City. Such material shall not be the subject of a copyright application by Consultant. Any alteration or reuse by City of any such materials on any project other than the project for which they were prepared shall be at the sole risk of City unless City compensates Consultant for such reuse.

7. Status as Independent Contractor. Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City, provided, however, that nothing contained in this provision shall be construed or interpreted so as to deprive Consultant of any and all defenses or immunities available to public officials acting in their official capacities. Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section 7.

8. Confidentiality. Consultant shall keep all data, documents, discussion, or other information (collectively "data") developed or received by Consultant or provided for performance of this Agreement confidential and shall not be disclose the data to any person or entity without prior written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. The terms of this Section 8 shall survive the termination of this Agreement.

9. Conflict of Interest. Consultant and its officers, employees, associates and sub consultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant shall retain the right to perform similar services for other clients, but Consultant and its officers, employees, associates and sub consultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or sub consultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

10. Indemnification. Consultant agrees to indemnify, defend and hold harmless City, and its elected officials, officers, attorneys, agents, employees,

designated volunteers, successors and assigns in accordance with the Indemnification and Hold Harmless Agreement and Waiver of Subrogation and Contribution attached hereto as Exhibit A. Consultant's covenant under this Section 10 shall survive the termination of this Agreement.

11. Insurance.

11.1 Consultant shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, with an insurance company admitted to do business in California, rated "A" or better in the most recent A.M. Best Insurance Rating Guide, and approved by City, a policy or policies of: (1) broad-form commercial general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000); (2) automobile liability insurance, with minimum combined single limits of One Million Dollars (\$1,000,000); (3) professional liability (errors and omissions) insurance, with minimum combined single limits coverage of One Million Dollars (\$1,000,000), on a form approved by the City Attorney; and (4) workers' compensation insurance with a minimum limit of One Million Dollars (\$1,000,000) or the amount required by law, whichever is greater. City, its officers, employees, attorneys, and designated volunteers shall be named as additional insureds on the policy(ies) as to commercial general liability and automobile liability with respect to liabilities arising out of Consultant's performance of services under this Agreement.

11.2 Each insurance policy required by this Section 11 shall be endorsed as follows: (1) the insurer waives the right of subrogation against City and its officials, officers, employees, agents and representatives; (2) except for professional liability and workers' compensation policies, the policies are primary and non-contributing with any insurance that may be carried by City; and (3) the policies may not be canceled or materially changed except after thirty (30) days prior written notice by insurer to City, unless canceled for non-payment, then ten (10) days notice shall be given.

12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation that City requires.

13. Termination. Either party may terminate this Agreement for any reason without penalty or obligation on thirty (30) calendar days' written notice to the other party. Consultant shall be paid for services satisfactorily rendered to the last working day the Agreement is in effect, and Consultant shall deliver all materials, reports, documents, notes, or other written materials compiled through the last working day the Agreement is in effect. Neither party shall have any other claim against the other party by reason of such termination.

14. Notices. Any notices, bills, invoices, or reports required by this Agreement shall be given by first class U.S. mail or by personal service. Notices shall be deemed received on (a) the day of delivery if delivered by hand or overnight courier service during Consultant's and City's regular business hours or by facsimile before or during Consultant's regular business hours; or (b) on the third (3rd) business day following

deposit in the United States mail, postage prepaid, to the addresses below, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this Section 14. All notices shall be delivered to the parties are the following addresses:

If to City: City Clerk
 City of Norwalk
 12700 Norwalk Boulevard
 Norwalk, California 90650
 Fax: (562) 929-5584

With a copy to:

Director of _____
City of Norwalk
12700 Norwalk Boulevard
Norwalk, California 90650
Fax: (562) 929-_____

If to Consultant: *Consultant Company Name*
 Consultant Address
 Consultant City, State Zip Code
 Fax: (____) ____-_____

15. Non-Discrimination and Equal Employment Opportunity. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation. Consultant shall take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

16. Non-Assignability; Subcontracting. Consultant shall not assign or subcontract all or any portion of this Agreement. Any attempted or purported assignment or sub-contracting by Consultant shall be null, void and of no effect.

17. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements applicable to this Agreement.

18. Non-Waiver of Terms, Rights and Remedies. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of

Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

19. Attorneys' Fees. In the event that either party to this Agreement shall commence any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorneys' fees.

20. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of an exhibit, the provisions of this Agreement shall prevail.

21. Entire Agreement. This Agreement and its exhibits represent the entire and integrated agreement between Consultant and City. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the parties that expressly refers to this Agreement.

[SIGNATURE PAGE FOLLOWS]

The parties, through their respective authorized representatives, are signing this Agreement on the date stated in the introductory clause.

CITY

CITY OF NORWALK

By: _____
Michael J. Egan, City Manager

ATTEST:

By: _____
Theresa Devoy, City Clerk

CONSULTANT'S COMPANY NAME

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

By: _____
Steven L. Dorsey, City Attorney

By: _____
Name: _____
Title: _____

(Please note: Two signatures required for corporations pursuant to California Corporations Code Section 313.)

EXHIBIT A

**INDEMNIFICATION AND HOLD HARMLESS AGREEMENT
AND WAIVER OF SUBROGATION AND CONTRIBUTION**

Contract/Agreement/License/Permit No. or description: _____

Indemnitor(s) (list all names): _____

To the fullest extent permitted by law, Indemnitor hereby agrees, at its sole cost and expense, to protect, indemnify, and hold harmless the City of Norwalk and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, and assigns (collectively "Indemnitees") from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith (collectively "Liabilities"), resulting from any wrongful or negligent act, failure to act, error, or omission of Indemnitor or any of its officers, agents, servants, employees, subcontractors, material men, suppliers or their officers, agents, servants or employees, arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to the above-referenced contract, agreement, license, or permit (the "Agreement") or the performance or failure to perform any term, provision, covenant, or condition of the Agreement, including this indemnity provision. This indemnity provision is effective regardless of any prior, concurrent, or subsequent passive negligence by Indemnitees and shall operate to fully indemnify Indemnitees against any such negligence. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnitees may have under the law. Payment is not required as a condition precedent to an Indemnitee's right to recover under this indemnity provision, and an entry of judgment against the Indemnitor shall be conclusive in favor of the Indemnitee's right to recover under this indemnity provision. Indemnitor shall pay Indemnitees for any attorneys fees and costs incurred in enforcing this indemnification provision. Notwithstanding the foregoing, nothing in this instrument shall be construed to encompass (a) Indemnitees' active negligence or willful misconduct to the limited extent that the underlying Agreement is subject to Civil Code § 2782(a), or (b) the contracting public agency's active negligence to the limited extent that the underlying Agreement is subject to Civil Code § 2782(b). This indemnity is effective without reference to the existence or applicability of any insurance coverages which may have been required under the Agreement or any additional insured endorsements which may extend to Indemnitees.

City agrees to promptly inform Indemnitor in writing of any claim that City believes to be subject to this Indemnification and Hold Harmless Agreement.

Indemnitor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to

activities or operations performed by or on behalf of the Indemnitor regardless of any prior, concurrent, or subsequent non-active negligence by the Indemnitees.

In the event there is more than one person or entity named in the Agreement as an Indemnitor, then all obligations, liabilities, covenants and conditions under this instrument shall be joint and several.

“Indemnitor”

Name: _____

Name: _____

By: _____

By: _____

Title: _____

Title: _____

Date _____

Date: _____

EXHIBIT B

SCOPE OF SERVICES

Consultant shall perform the following tasks:

EXHIBIT C
BILLING RATE SCHEDULE

SECTION VII

CONFLICT OF INTEREST DISCLAIMER

CONFLICT OF INTEREST DISCLAIMER

The undersigned, _____, declares that
(Print or Type Name)

_____ does have/does not have (cross one out)
(Name of Firm)

interest, ownership or receives or anticipates receiving remuneration of any type from the manufacturer(s), supplier(s), or distributor(s) which may be recommended on the project, as listed below.

| <u>Firm</u> | <u>Product</u> | <u>Remuneration</u> |
|-------------|----------------|---------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Signature of President, Secretary, Partner,
Owner or Representative

Date

SECTION VIII

ACKNOWLEDGEMENT OF INSURANCE REQUIREMENTS

ACKNOWLEDGMENT OF INSURANCE REQUIREMENTS
AND CERTIFICATION OF ABILITY TO
PROVIDE COVERAGES SPECIFIED

I, _____, the _____
(President; Secretary; Owner or Representative)

of _____, certify that
the _____
(Company Name or Corporation, or Owner)

Insurance Requirements set forth in Article IV of the Proposed Agreement have been
read and understood that our insurance company(ies) _____

(Name(s) of insurance company(ies))

is/are able to provide the coverages specified.

Signature of President, Secretary, Partner,
Owner or Representative

Date

SECTION IX

**DISADVANTAGED BUSINESS ENTERPRISE
(DBE) REQUIREMENTS**

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

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

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

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

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

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

4. DBE PARTICIPATION GENERAL INFORMATION

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
1. The proposer is a DBE and will meet the goal by performing work with its own forces.

2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
 - E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
 - F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
 - G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

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

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

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

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.

- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

EXHIBIT 10-J STANDARD CONTRACT PROVISIONS FOR SUBCONSULTANT/DBE PARTICIPATION

1. Subconsultants

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

2. Disadvantaged Business Enterprise (DBE) Participation

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

3. Performance of DBE Consultant and other DBE Subconsultants/Suppliers

A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing; and other relevant factors.

B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Contract with its own work force, or the DBE subcontracts a greater portion of the work of the Contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

4. Prompt Payment of Funds Withheld to Subconsultants

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

(Local agency to include either B, C, or D below; delete the other two.)

B. No retainage will be withheld by the Agency from progress payments due the prime Consultant. Retainage by the prime Consultant or subconsultants is prohibited, and no retainage will be held by the prime Consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime Consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime Consultants and subconsultants.

C. No retainage will be held by the Agency from progress payments due the prime Consultant. Any retainage held by the prime Consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime Consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

D. The Agency shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

5. DBE Records

A. The Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

B. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants," CEM-2402F (Exhibit 17-F, Chapter 17, of the LAPM), certified correct by the Consultant or the Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 25 percent of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

6. DBE Certification and Decertification Status

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

INSTRUCTIONS - CONSULTANT PROPOSAL DBE COMMITMENT

Consultant Section

The Consultant shall:

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

Local Agency Section:

The Local Agency representative shall:

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

EXHIBIT 10-02 CONSULTANT CONTRACT DBE INFORMATION

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

| Consultant to Complete this Section | | | |
|---|--------------------------------------|-----------------------------|-----------------------|
| 1. Local Agency Name: _____ | | | |
| 2. Project Location: _____ | | | |
| 3. Project Description: _____ | | | |
| 4. Total Contract Award Amount: \$ _____ | | | |
| 5. Consultant Name: _____ | | | |
| 6. Contract DBE Goal %: _____ | | | |
| 7. Total Dollar Amount for <u>all</u> Subconsultants: \$ _____ | | | |
| 8. Total Number of <u>all</u> Subconsultants: _____ | | | |
| Award DBE/DBE Information | | | |
| 9. Description of Services to be Provided | 10. DBE/DBE Firm Contact Information | 11. DBE Cert. Number | 12. DBE Dollar Amount |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Local Agency to Complete this Section | | 13. Total Dollars Claimed | 12. DBE Dollar Amount |
| 20. Local Agency Contract Number: _____ | | \$ _____ | _____ % |
| 21. Federal-aid Project Number: _____ | | | |
| 22. Contract Execution Date: _____ | | 14. Total % Claimed | |
| Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate: | | _____ % | |
| 23. Local Agency Representative Name (Print) | | 15. Preparer's Signature | |
| 24. Local Agency Representative Signature | 25. Date | 16. Preparer's Name (Print) | |
| 26. Local Agency Representative Title | 27. (Area Code) Tel. No. | 17. Preparer's Title | |
| Caltrans to Complete this Section | | 18. Date | |
| Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness: | | 19. (Area Code) Tel. No. | |
| 28. DLAE Name (Print) | 29. DLAE Signature | 30. Date | |

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

INSTRUCTIONS - CONSULTANT CONTRACT AWARD DBE INFORMATION

Consultant Section

The Consultant shall:

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

Local Agency Section:

The Local Agency representative shall:

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

Caltrans Section:

Caltrans District Local Assistance Engineer (DLAE) shall:

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

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
**FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES
 (DBE), FIRST-TIER SUBCONTRACTORS**

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

CEM-2402F (REV 02/2008)

| CONTRACT NUMBER | | COUNTY | ROUTE | POST MILES | FEDERAL AID PROJECT NO. | ADMINISTERING AGENCY | CONTRACT COMPLETION DATE |
|---------------------|---|-----------------------------------|------------------|-------------------|-------------------------|----------------------|---------------------------------|
| PRIME CONTRACTOR | | | | BUSINESS ADDRESS | | | ESTIMATED CONTRACT AMOUNT \$ |
| ITEM NO. | DESCRIPTION OF WORK PERFORMED AND MATERIAL PROVIDED | COMPANY NAME AND BUSINESS ADDRESS | DBE CERT. NUMBER | CONTRACT PAYMENTS | | | DATE OF FINAL PAYMENT |
| | | | | NON-DBE | DBE | DATE WORK COMPLETE | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| | | | | \$ | \$ | | |
| ORIGINAL COMMITMENT | | | | | | | |
| \$ | | | TOTAL | \$ | \$ | | |

DBE

List all First-Tier disadvantaged Business Enterprises (DBEs) regardless of tier, whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item Subcontractors, Disadvantaged of work) at time of award, provide comments on back of form. List actual amount paid to each entity.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

| | | |
|--|-----------------------|------|
| CONTRACTOR REPRESENTATIVE'S SIGNATURE | BUSINESS PHONE NUMBER | DATE |
| TO THE BEST OF MY INFORMATION AND BELIEF, THE ABOVE INFORMATION IS COMPLETE AND CORRECT | | |
| RESIDENT ENGINEER'S SIGNATURE | BUSINESS PHONE NUMBER | DATE |

Copy Distribution-Caltrans contracts: **Original** - District Construction **Copy**- Business Enterprise Program **Copy**- Contractor **Copy** Resident Engineer

Copy Distribution-Local Agency contracts: **Original** - District Local Assistance Engineer (submitted with the Report of Expenditure) **Copy**- District Local Assistance Engineer **Copy**- Local Agency file

The form requires specific information regarding the construction project: Contract Number, County, Route, Post Miles, Federal-aid Project No., the Administering Agency, the Contract Completion Date and the Estimated Contract Amount. It requires the prime contractor name and business address. The focus of the form is to describe who did what by contract item number and descriptions, asking for specific dollar values of item work completed broken down by subcontractors who performed the work both DBE and non-DBE work forces. DBE prime contractors are required to show the date of work performed by their own forces along with the corresponding dollar value of work.

The form has a column to enter the Contract Item No. (or Item No's) and description of work performed or materials provided, as well as a column for the subcontractor name and business address. For those firms who are DBE, there is a column to enter their DBE Certification Number. The DBE should provide their certification number to the contractor and notify the contractor in writing with the date of the decertification if their status should change during the course of the project.

The form has six columns for the dollar value to be entered for the item work performed by the subcontractor.

The Non-DBE column is used to enter the dollar value of work performed for firms who are not certified DBE.

The decision of which column to be used for entering the DBE dollar value is based on what program(s) status the firm is certified. This program status is determined by the California Unified Certification Program by ethnicity, gender, ownership, and control issues at time of certification. To confirm the certification status and program status, access the Department of Transportation Civil Rights web site at: <http://www.dot.ca.gov/hq/bep> or by calling (916) 324-1700 or the toll free number at (888) 810-6346.

Based on this DBE Program status, the following table depicts which column to be used:

| DBE Program | Column to be used |
|---|--------------------------|
| If program status shows DBE only with no other programs | DBE |

If a contractor performing work as a DBE on the project becomes decertified and still performs work after their decertification date, enter the total dollar value performed by this contractor under the appropriate DBE identification column.

If a contractor performing work as a non-DBE on the project becomes certified as a DBE, enter the dollar value of all work performed after certification as a DBE under the appropriate identification column.

Enter the total of each of the six columns in Form CEM-2402(F).

Any changes to DBE certification must also be submitted on Form-CEM 2403(F).

Enter the Date Work Completed as well as the Date of Final Payment (the date when the prime contractor made the "final payment" to the subcontractor for the portion of work listed as being completed).

The contractor and the resident engineer sign and date the form indicating that the information provided is complete and correct.

SECTION X

**NON-LOBBYING CERTIFICATION
FOR FEDERAL-AID CONTRACTS
AND
DISCLOSURE OF LOBBYING ACTIVITIES**

EXHIBIT 10-P NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

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

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

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

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

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 style="text-align: right;">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 style="text-align: center;">Congressional District, if known</p> | <p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p style="text-align: center;">Congressional District, if known</p> | |
| <p>6. Federal Department/Agency:</p> | <p>7. Federal Program Name/Description:</p> <p style="text-align: right;">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 (If individual, last name, first name, MI)</p> | <p>11. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI)</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 style="text-align: center;">(attach Continuation Sheet(s) if necessary)</p> | | |
| <p>16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/></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: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>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