

**SECOND AMENDMENT
TO THE
AGREEMENT FOR CONSULTANT SERVICES**

**LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD
CONNECTOR PROJECT 18-832-4505**

This Second Amendment to the Agreement for Consultant Services for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project CIP No. 18-832-4505 that is dated for identification this _____ day of _____ 2023 (“SECOND AMENDMENT”) and amends that certain AGREEMENT FOR CONSULTANT SERVICES LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT 18-832-4505 dated the 1st of October, 2019 and the FIRST AMENDMENT executed on September 13, 2021 by and between the Town of Los Gatos (LOCAL AGENCY) and Mott MacDonald Group, Inc. (CONSULTANT).

RECITALS

- A. LOCAL AGENCY and CONSULTANT entered into an Agreement for Consultant Services Agreement on October 1, 2019, (“Agreement”), and executed the First Amendment to the Agreement for Consultant Services on September 13, 2021, copies of which are attached hereto and incorporated by reference as Attachment 1 to this SECOND AMENDMENT.
- B. The LOCAL AGENCY desires to amend the Agreement to increase the scope of services and increase compensation for Task B – Bid Support Services and Task C – Construction Support Services, extend the term of the Agreement, and modify required insurance coverages as described below.

AMENDMENT

1. Article I – INTRODUCTION is hereby modified to identify the Contract Administrator for the LOCAL AGENCY to be Nicolle Burnham, Parks and Public Works Director.
2. Article II – STATEMENT OF WORK is hereby modified to include the attached EXHIBIT A.2 – SCOPE OF SERVICES Amended 07-03-23, EXHIBIT B.2.1 – COST PROPOSAL - Amended 07-03-23 COST PROPOSAL BY TASK, and EXHIBIT B.2.2 – COST PROPOSAL– Caltrans Exhibits 10-H3 for Task C – Construction Support Services.
3. Article IV PERFORMANCE PERIOD - Paragraph A is hereby amended to extend the Agreement end date to 06/20/25.
4. ARTICLE V - ALLOWABLE COSTS AND PAYMENTS TASK B AND TASK C - Paragraph J is revised to read: “The total amount payable by LOCAL AGENCY for Task B and Task C shall not exceed \$234,371.”
5. ARTICLE XIX INSURANCE is hereby replaced with the following:

ARTICLE XIX INSURANCE

Without limiting CONSULTANT's obligation to indemnify and hold harmless LOCAL AGENCY and VTA, CONSULTANT must procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by CONSULTANT, its agents, representatives, employees, or subconsultants. The cost of such insurance must be borne exclusively by CONSULTANT. In the event of any material change in the AGREEMENT Scope of Services, LOCAL AGENCY AND VTA reserve the right to change the insurance requirements set forth herein, upon advance written notice to CONSULTANT. CONSULTANT must furnish evidence of all required insurance policies, within three (3) business days of any request for such by LOCAL AGENCY or VTA.

A. Liability and Workers' Compensation Insurance

1. Minimum Scope of Coverage

Coverage must be at least as broad as:

- a. General Liability coverage; Insurance Services Office "occurrence" form CG 0001. General Liability insurance written on a "claims made" basis is not acceptable. Completed Operations coverage must be continuously maintained for at least two (2) years after Final Acceptance of the Work.
- b. Business Auto Coverage, Insurance Services Office form number CA 0001, covering Automobile Liability, code 1 "any auto." Auto Liability written on a "claims-made" basis is not acceptable.
- c. Workers' Compensation insurance, as required by the Labor Code of the State of California, and Employer's Liability insurance.
- d. Professional Liability, including limited contractual liability coverage, covering liability arising out of any negligent act, error, mistake or omission in the performance of CONSULTANT'S services under this AGREEMENT. This coverage must be continuously maintained for a minimum of two (2) years following completion of this AGREEMENT. This coverage may be written on a "claims made" basis, if so, please see special provisions in Section C.
- e. CONSULTANT'S Pollution/Environmental Impairment Liability: covering liability arising out of the treatment, handling, storage, transportation, or accidental release of any hazardous material, to the extent applicable to CONSULTANT'S scope of services.

2. Minimum Limits of Insurance

- a. CONSULTANT must maintain limits no less than:
 1. General Liability (including umbrella/excess liability): \$5,000,000 limit per occurrence for bodily injury, personal injury, and property damage. If General Liability Insurance or other form with a general aggregate limit is used, either the

general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit. This requirement may be satisfied by a combination of General Liability with Excess or Umbrella, but in no event may the General Liability primary policy limit per occurrence be less than \$2,000,000, unless Umbrella/Excess policies feature inception and expiration dates concurrent with the underlying General Liability policy, "Follow Form" coverage, and a "Drop Down" provision.

2. Automobile Liability (including umbrella/excess liability): \$4,000,000 limit per accident for bodily injury and property damage. This requirement may be satisfied by a combination of Auto with Excess or Umbrella, but in no event may the Automobile Liability primary policy limit per occurrence be less than \$2,000,000, unless Excess policies feature inception and expiration dates concurrent with the underlying auto liability policy, "Follow Form" coverage, and a "Drop Down" provision.
3. Workers' Compensation and Employer's Liability: Statutory Workers' Compensation limits and Employer's Liability limits of \$1,000,000 per accident.
4. Professional Liability: \$2,000,000 per claim/aggregate minimum limit per claim. This requirement may be satisfied by a combination of Professional Liability insurance with Excess or Umbrella policies, but in no event may the Professional Liability primary policy limit per occurrence be less than \$2,000,000, unless Umbrella/Excess policies feature inception and expiration dates concurrent with the underlying policy, "Follow Form" coverage, and a "Drop Down" provision.
5. If applicable, CONSULTANT'S Pollution/Environmental Impairment Liability: \$3,000,000 per occurrence. This requirement may be satisfied by a combination of Pollution Liability insurance with Excess or Umbrella policies. Umbrella/Excess policies must feature inception and expiration dates concurrent with the underlying policy, "Follow Form" coverage, and a "Drop Down" provision.

3. Self-Insured Retention

The certificate of insurance must disclose the actual amount of any deductible or self-insured retention for all coverages required herein. Any self-insured retention or deductible must be declared to and approved by LOCAL AGENCY and VTA. To apply for approval for a level of retention or deductible CONSULTANT must provide a current financial report including balance sheets and income statements for the past three years, so that LOCAL AGENCY and VTA can assess CONSULTANT's ability to pay claims falling within the self-insured retention or deductible. Upon review of the financial report, if deemed necessary by LOCAL AGENCY and VTA in their sole discretion, LOCAL AGENCY and VTA may elect one of the following options: to accept the existing self-insured retention or deductible; require the insurer to reduce or eliminate the self-insured retention or deductible as respects LOCAL AGENCY and VTA, its directors, officers, officials, employees and volunteers; or to require CONSULTANT to procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. Applicable costs resulting therefrom will be borne solely by CONSULTANT. CONSULTANT may request execution of a nondisclosure

agreement prior to submission of financial reports.

B. Reserved.

C. Claims Made Provisions

Claims-made coverage is never acceptable for General Liability or Auto Liability. Claims-made may be considered for Professional, Environmental/Pollution, or Cyber. For coverage written on a claims-made basis, it must be clearly stated on the Certificate of Insurance. In addition to all other coverage requirements, such policy must provide that:

1. The policy retroactive date must be no later than the date of this AGREEMENT.
2. If any policy is not renewed or the retroactive date of such policy is to be changed, CONSULTANT must obtain or cause to be obtained the broadest extended reporting period coverage available in the commercial insurance market. This extended reporting provision must cover at least two (2) years.
3. No prior acts exclusion may be added to the policy during the AGREEMENT period.
4. The policy allows for reporting of circumstances or incidents that might give rise to future claims.

D. Other Provisions

The specified policies must contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability

- a. The LOCAL AGENCY and VTA, its directors, officers, officials, and employees are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of CONSULTANT, including LOCAL AGENCY'S general supervision of CONSULTANT; products and completed operations of CONSULTANT and its subconsultants; premises owned, occupied or used by CONSULTANT; or automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage must contain no special limitations on the scope of protection afforded to LOCAL AGENCY and VTA, its directors, officers, officials, employees. Additional Insured endorsements must provide coverage at least as broad as afforded by the combination of ISO CG 20 10 10 01 and CG 20 37 10 01.
- b. Any failure to comply with reporting provisions of the policies may not affect coverage provided to LOCAL AGENCY and VTA, its directors, officers, officials, employees, or volunteers.
- c. CONSULTANT's required insurance must 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.
- d. The General Liability General Aggregate limit must apply per project, not per policy.

2. All Coverages

- a. Excluding Professional Liability, The insurer must agree to waive all rights of subrogation against LOCAL AGENCY and VTA, its directors, officers, officials, and employees for losses arising from work performed by CONSULTANT and its subconsultants for LOCAL AGENCY and VTA.
- b. CONSULTANT's insurance coverage must be primary insurance as respects LOCAL AGENCY AND VTA, its directors, officers, officials, employees, and volunteers. Self-insurance or insurance that may be maintained by LOCAL AGENCY AND VTA, its directors, officers, officials, employees, or volunteers may apply only as excess to CONSULTANT's insurance. CONSULTANT's insurance must not seek contribution from LOCAL AGENCY or VTA's insurance programs.
- c. Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after a thirty (30) calendar days prior written notice by certified mail, return receipt required, has been given to LOCAL AGENCY.
- d. LOCAL AGENCY will not be responsible for any premiums or assessments on the CONSULTANT'S policies.
- e. In the event CONSULTANT employs subconsultants as part of the work covered by this AGREEMENT, it shall be the responsibility of CONSULTANT to ensure that all subconsultants are included as additional insured under the CONSULTANTS policies or shall furnish separate certificates and endorsements for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein and shall comply with the same insurance requirements that are stated in this AGREEMENT.

3. Other Insurance Provisions

- a. If any coverage forms or endorsements required by this AGREEMENT are updated by their publishers, whether they be the insurance carrier(s), the Insurance Services Office, or the American Association of Insurance Services, during the duration of this AGREEMENT, LOCAL AGENCY AND VTA reserves the rights to require CONSULTANT to procure said coverage forms or endorsements using the updated versions upon the next renewal cycle.
- b. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event that said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) calendar days prior notice to said expiration date; and a new Certificate of Insurance evidencing the insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of the LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in

addition to any other remedies it may have, terminate the AGREEMENT upon occurrence of such event.

- c. Approval of the insurance by LOCAL AGENCY or acceptance of the Certificate of Insurance by LOCAL AGENCY shall not relieve or decrease the extent to which CONSULTANT may be held responsible for payment of damages resulting from CONSULTANT'S services or operation pursuant to this AGREEMENT, nor shall it be deemed a waiver of LOCAL AGENCY'S rights to insurance coverage hereunder.

E. Acceptability of Insurers

Insurance and bonds must be placed with insurers with an A.M. Best's rating of no less than A VII (financial strength rating of no less than A and financial size category of no less than VII), unless specific prior written approval has been granted by LOCAL AGENCY and VTA.

F. Certificates of Insurance

CONSULTANT must furnish LOCAL AGENCY with Certificates of Insurance and with original endorsements effecting coverage required. The certificates and endorsements for each insurance policy must be signed by an authorized representative of that insurer. The certificates must be issued on a standard ACORD Form. CONSULTANT must instruct their insurance broker/agent to submit all insurance certificates and endorsements and required notices electronically in PDF format to the LOCAL AGENCY. All endorsements must be attached to the ACORD certificate in a single PDF document. All insurance must be in effect for the duration of the AGREEMENT. The absence of insurance or a reduction of the stated limits shall cause all work on the project to cease. Any delays shall not increase costs to LOCAL AGENCY or increase the duration of the project. The LOCAL AGENCY reserves the right to require additional evidence of all required insurance policies, at any time.

The certificates must (1) identify the insurers, the types of insurance, the insurance limits, the deductibles or lack thereof, and the policy term, (2) include copies of all the actual policy endorsements required herein, and (3) in the "Certificate Holder" box include:

Town of Los Gatos
41 Miles Avenue
Los Gatos, CA 95030

Santa Clara Valley Transportation Authority ("VTA")
3331 North First Street
San Jose, CA 95134-1906

In the Description of Operations/Locations/Vehicles/Special Items Box, the LOCAL AGENCY and VTA for any relevant property leased must appear, the list of policies scheduled as underlying on the Umbrella/Excess policy must be listed, excluding Professional Liability. Certificate Holder must be named as additional insured, and Waiver of Subrogation must be indicated as endorsed to all policies as stated in the AGREEMENT documents., excluding Professional Liability.

It is a condition precedent to granting of this AGREEMENT that all insurance certificates and endorsements be received and approved by LOCAL AGENCY and VTA before AGREEMENT execution. No occupancy may be taken until required insurance is in full compliance.

G. Maintenance of Insurance

If CONSULTANT fails to maintain insurance as required herein, LOCAL AGENCY, at its option, may suspend the AGREEMENT until a new policy of insurance is in effect.

H. Hold Harmless

Subject to California Civil Code Section 2782.8, CONSULTANT hereby agrees to and shall hold LOCAL AGENCY and VTA, its elective and appointive boards, commissions, officers, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage and any other claims of any sort what so ever, including, but not limited to, any liabilities, claims, losses, or expenses to the extent caused by the negligent acts, errors, or omissions or willful misconduct of CONSULTANT or CONSULTANT's SUBCONSULTANTS, agents, or employee operations in the performance of services under this AGREEMENT, whether such operations by CONSULTANT or by any of CONSULTANT's SUBCONSULTANTS, or by any one or more persons directly or indirectly employed by, or acting as agent for CONSULTANT or any of CONSULTANT's SUBCONSULTANTS during the progress of the work or at any time before its completion and final acceptance, excepting suits and actions brought by the CONSULTANT for default of this AGREEMENT or arising from the negligence or willful misconduct of the LOCAL AGENCY or VTA. To the extent applicable to CONSULTANT'S indemnity obligations hereunder, the Local Agency Council may retain as much of the money due to the CONSULTANT as shall be reasonably necessary to protect the LOCAL AGENCY, until disposition has been made of any such suits or claims for damages as aforesaid.

To the extent applicable to CONSULTANT'S indemnity obligations hereunder, CONSULTANT agrees to and shall reimburse LOCAL AGENCY's reasonable cost of defense (or, at the sole option of the LOCAL AGENCY, CONSULTANT shall defend with counsel reasonably approved by the LOCAL AGENCY Attorney) and indemnify LOCAL AGENCY and its elective and appointive boards, commissions, officers, and employees from any suits or actions at law or in equity (exclusive of any such actions brought by CONSULTANT), such indemnification to include all reasonable costs of defense, judgments, and any awards of reasonable attorneys' fees.

Should any accident or incident causing death, personal injury or property damage occur between the date CONSULTANT is notified that its General Liability and/or Workers Compensation Insurance is canceled and the effective date of such cancellation, CONSULTANT's obligation to indemnify, defend and save harmless the LOCAL AGENCY, as provided for hereinabove, shall in no manner be affected by the fact that the LOCAL AGENCY had not received the notice of cancellation prior to the date of such accident or incident.

6. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the LOCAL AGENCY and CONSULTANT have executed this SECOND AMENDMENT, effective as of the date first set forth above.

TOWN OF LOS GATOS by:

CONSULTANT by:

Laurel Prevetti, Town Manager

Mohamed Basma, Senior Vice President –
Division Manager

Approved as to Form:

Departmental Approval:

Gabrielle Whelan, Town Attorney

Nicolle Burnham, Parks & Public Works Director

Attest:

Wendy Wood, Town Clerk

EXHIBIT A.2 – SCOPE OF SERVICES

Amended 07-03-23

Task C – Construction Support Services is hereby amended to include the following:

Task C.1.1 – Construction Support Services Project Management and Administration – Mott MacDonald will provide construction support project management related tasks on a cost per unit of work payment basis for the duration of the construction contract. The current construction contract includes 270 working days. Project management services are based on exercising prudent control of project scope, schedule, and quality of services and deliverables to be provided. This includes coordinating the work of the Mott MacDonald team, sub consultants and communications with the Town of Los Gatos and Caltrans.

Task C.2 – Preparing Responses to Requests for Information, Submittal Reviews and As-Built plans:

C2.1 Attend in person meetings as requested. (Approximately 50 team hours).

C2.2 Prepare responses to contractor's Request for Information (RFI) and Request for Solution (RFS) as requested. (Approximately 283 team hours)

C2.3 Review and provide responses to Contractor's submittals as requested. (Approximately 230 team hours).

C2.4 Site Observations including on-site visits by the engineering team to observe construction operations at critical milestones to determine whether the design intent is met during construction. (Approximately 30 team hours).

C2.5 Maintain Records including logs of RFIs, Submittals, Shop Drawings and Requests for Solutions (RFS). Logs will be included in monthly progress reports. (Approximately 22 team hours).

C2.6 Complete final walkthrough as requested to determine whether the intent of construction plans has been met. (Approximately 9 team hours)

C2.7 Assist in resolution/inspection of construction issues as requested. (Approximately 30 team hours)

C2.8 Upon completion of the construction work, Mott MacDonald will prepare record drawings based on red lines provided by the Resident Engineer. (Approximately 270 team hours).

EXHIBIT B.2.1 – COST PROPOSAL

Amended 07-03-23

COST PROPOSAL BY TASK

SUB TASK	DESCRIPTION	NOT TO EXCEED COST
TASK A – BASIC SERVICES		
Task A.1	Project Management and Coordination	\$26,960
Task A.2	Data Collection, Review and Site Visit	\$9,212
Task A.3	Surveys and Mapping	\$27,154
Task A.4	Utility Coordination	\$11,336
Task A.5	Preliminary Engineering	\$27,231
Task A.6	Environmental Studies and Documentation	\$42,991
Task A.7	Geotechnical Investigations and Reports	\$54,489
Task A.8	Right of Way Certification	\$4,400
Task A.9	Final Design	\$198,438
Task A.10	Coordination with Adjacent Agencies	\$6,601
SUBTOTAL BASIC SERVICES		\$408,812
Task A.11	Supplemental Reports and Services	\$ 49,935
Amendment No. 1		\$ 90,000
AMENDED TOTAL TASK A.11		\$139,935
TOTAL NOT TO EXCEED TASK A		\$548,747
TASK B – BID SUPPORT SERVICES		
TOTAL NOT TO EXCEED TASK B		\$ 28,000
TASK C – CONSTRUCTION SUPPORT SERVICES		
AMENDMENT No. 2 - TOTAL NOT TO EXCEED TASK C		\$206,371
TOTAL AMENDED CONTRACT AMOUNT NOT TO EXCEED		\$783,118

EXHIBIT B.2.2 – COST PROPOSAL
Caltrans Exhibits 10-H3
For Task C – Construction Support Services
Amended 07-03-23

ATTACHMENT 1

AGREEMENT FOR CONSULTANT SERVICES LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD
CONNECTOR PROJECT 18-832-4505 dated the 1st of October, 2019
and the
FIRST AMENDMENT executed on September 13, 2021

**FIRST AMENDMENT TO AGREEMENT
TO THE
AGREEMENT FOR CONSULTANT SERVICES**

**LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR
PROJECT 18-832-4505**

This First Amendment to Agreement for Consultant Services for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project CIP No. 18-832-4505 amends that certain Agreement for Consultant Services dated October 1, 2019, made by and between the Town of Los Gatos, ("LOCAL AGENCY") and Mott MacDonald Group, Inc. ("CONSULTANT").

RECITALS

- A. The LOCAL AGENCY and CONSULTANT entered into an Agreement for Consultant Services on October 1, 2019, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. The LOCAL AGENCY desires to amend the agreement to increase the scope of work, increase compensation, and extend the term of the agreement.

AMENDMENT

- 1. ARTICLE I – Introduction is amended to read:
The Contract Administrator for LOCAL AGENCY will be WooJae Kim, Town Engineer.
- 2. ARTICLE IV Performance Period (A.) is amended to read:
The AGREEMENT shall end on 12/31/23, unless extended by AGREEMENT amendment.
- 3. ARTICLE V – Allowable Costs and Payments Task A Item E is amended to read:
The total amount payable by Local Agency for Task A shall not exceed \$576,747.
- 4. Exhibit B – Cost Proposal is revised per the attached Exhibit B dated 06-30-21.
The amount for Task A.11 Supplemental Reports and Services is hereby increased from \$49,935 to \$139,935 for additional reports and services to be performed as outlined in the Scope of Services.

Compensation shall be payable as outlined in the terms of the original Agreement.

All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the LOCAL AGENCY and CONSULTANT have executed this Amendment.

LOCAL AGENCY

Town of Los Gatos by:

DocuSigned by:
Laurel Prevetti 9/13/2021
853FEFA8EB30470
Laurel Prevetti, Town Manager

CONSULTANT by:

DocuSigned by:
Mohamed Basma 9/3/2021
43F4205A006D4C2...
Name

Senior Vice President - Division Manager

Title

Department Recommendation:

DocuSigned by:
Matt Morley 9/3/2021
BBA0B3B0D8F4484...
Matt Morley
Director of Parks and Public Works

Approved as to Form:

DocuSigned by:
Robert W. Schultz 9/12/2021
2FE0938555B744C...
Robert Schultz, Town Attorney

Attest:

DocuSigned by:
Shelley Neis 9/13/2021
B0666F65B1F34F6...
Shelley Neis, MMC, CPMC, Town Clerk

REVISED EXHIBIT B – COST PROPOSAL**COST PROPOSAL BY TASK
(for progress payment purposes)**

SUB TASK	DESCRIPTION	NOT TO EXCEED COST
TASK A – BASIC SERVICES		
Task A.1	Project Management and Coordination	\$26,960
Task A.2	Data Collection, Review and Site Visit	\$9,212
Task A.3	Surveys and Mapping	\$27,154
Task A.4	Utility Coordination	\$11,336
Task A.5	Preliminary Engineering	\$27,231
Task A.6	Environmental Studies and Documentation	\$42,991
Task A.7	Geotechnical Investigations and Reports	\$54,489
Task A.8	Right of Way Certification	\$4,400
Task A.9	Final Design	\$198,438
Task A.10	Coordination with Adjacent Agencies	\$6,601
SUBTOTAL BASIC SERVICES		\$408,812
Task A.11	Supplemental Reports and Services	\$49,935
Addendum No. 1		\$90,000
AMENDED TOTAL TASK A.11		\$139,935
TOTAL NOT TO EXCEED TASK A		\$548,747
TOTAL NOT TO EXCEED TASK B AND TASK C		\$28,000
TOTAL AMENDED CONTRACT AMOUNT NOT TO EXCEED		\$576,747

AGR 19.183

IHH _____

AGREEMENT FOR CONSULTANT SERVICES**LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT 18-832-4505****TABLE OF CONTENTS**

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ARTICLE I – INTRODUCTION

This AGREEMENT is made and entered into on October 1, 2019 (*DATE*) by and between the TOWN OF LOS GATOS, a California municipal corporation, hereinafter referred to as, LOCAL AGENCY and Mott MacDonald Group, Inc., hereinafter referred to as, CONSULTANT, whose address is 2077 Gateway Place, Suite 550, San Jose, CA 95110. The CONSULTANT is incorporated in the State of Delaware.

The Project Manager for the CONSULTANT will be Teferi Abere, Principal Project Manager.

The Contract Administrator for LOCAL AGENCY will be Lisa Petersen, Assistant Public Works Director/Town Engineer.

This AGREEMENT is made with reference to the following facts.

The LOCAL AGENCY desires to engage CONSULTANT to provide professional engineering design services for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project.

The CONSULTANT represents and affirms that it is willing to perform the desired work pursuant to this AGREEMENT.

The CONSULTANT represents to LOCAL AGENCY that it possesses the professional skills, qualifications, experience, and resources necessary and has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for CONSULTANT to practice its profession and to timely perform the services described in this AGREEMENT. The services performed by CONSULTANT will be in a manner consistent with that level of care and skill ordinarily exercised by other professional consulting firms providing similar services under similar circumstances at the time, and in the general vicinity where, the services are performed. CONSULTANT acknowledges LOCAL AGENCY has relied upon these representations to retain the CONSULTANT.

CONSULTANT shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws.

CONSULTANT shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.

- A. The work to be performed under this AGREEMENT is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal dated August 29, 2019. The approved CONSULTANT's Scope of Services (Exhibit A) and Cost Proposal (Exhibit B) is attached hereto and incorporated by reference. If there is any conflict between the approved Scope of Services or Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- B. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless LOCAL AGENCY, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, penalties, costs, losses and expenses, in law or equity, including without limitation, court costs and

reasonable attorneys' and expert witness fees, to the extent caused by the negligent acts, errors, or omissions, recklessness or willful misconduct on the part of CONSULTANT, or any of the CONSULTANT'S officers, employees, or agents or any sub-consultants. The provisions of this section shall survive termination or suspension of this AGREEMENT.

- C. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this AGREEMENT, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY. As an independent contractor it or its employees or agents shall not obtain any rights to retirement benefits or other benefits which accrue to LOCAL AGENCY employee(s).
- D. LOCAL AGENCY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of this AGREEMENT, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.
- E. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against LOCAL AGENCY based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.
- F. The services to be performed under this AGREEMENT are unique and personal to the CONSULTANT. No portion of these services shall be assigned or subcontracted without the written consent of the LOCAL AGENCY. With prior written consent, the CONSULTANT may perform some obligations under this AGREEMENT by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this AGREEMENT. CONSULTANT agrees to reasonably cooperate with LOCAL AGENCY regarding litigation brought regarding the subject of CONSULTANT's work to be performed under this AGREEMENT. CONSULTANT shall be compensated for its time, and any costs and expenses at its then current hourly rates of compensation, unless such litigation is brought by CONSULTANT or is based on allegations of CONSULTANT'S negligent performance or wrongdoing.
- G. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or Subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- H. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- I. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II STATEMENT OF WORK

CONSULTANT agrees to perform the services as outlined in "Exhibit A-Scope of Services" within the time frames specified therein, and "Exhibit B - Consultant's Cost Proposal" which are hereby incorporated by reference and attached.

ARTICLE III CONSULTANT'S REPORTS OR MEETINGS

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

ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT shall go into effect on **October 1, 2019** ~~insert award date~~, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on 06/20/21, unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS TASK A-

- A. The method of payment for TASK A of this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article II Statement of Work of this AGREEMENT. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by LOCAL AGENCY.
- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- C. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall

be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this AGREEMENT. The final invoice must be submitted within sixty (60) calendar days after completion of CONSULTANT's work, unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

Town of Los Gatos Parks and Public Works Department
ATTN: Lisa Petersen, Assistant
Public Works Director/Town Engineer Los
Gatos Creek Trail to Highway 9 Trailhead
Connector Project
41 Miles Avenue Los Gatos, CA 95030

- E. The total amount payable by LOCAL AGENCY for TASK A shall not exceed \$458,747

TASK B and TASK C

- A. The method of payment for TASK B and TASK C shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.
- B. The specified rate to be paid for vehicle expense for CONSULTANT's field personnel shall be \$0.00 per approved Cost Proposal. This rate shall be for a fully equipped vehicle(s) specified in Article II Statement of Work, as applicable. The specified rate to be paid for equipment shall be, as listed in Exhibit B- Consultant's Cost Proposal.
- C. The method of payment for TASK B and TASK C of this AGREEMENT, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment-rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in the approved Cost Proposal, unless additional reimbursement is provided for, by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and AGREEMENT is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as

specified in Paragraph "J," of this Article shall not be exceeded unless authorized by AGREEMENT amendment.

- D. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$0. The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- E. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- F. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- G. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article II Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT.
- H. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- I. CONSULTANT will be reimbursed within thirty (30) days of receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY'S Contract Administrator at the following address:
 - Town of Los Gatos Parks and Public Works
 - Department ATTN: Lisa Petersen, Assistant
 - Public Works Director/Town Engineer
 - Los Gatos Creek Trail to Highway 9 Trailhead
 - Connector Project 41 Miles Avenue
 - Los Gatos, CA 95030
- J. The total amount payable by LOCAL AGENCY including the fixed fee for TASK B and TASK C shall not exceed \$ 28,000.
- K. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.
- L. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the

prevailing wage rates are reimbursable.

ARTICLE VI TERMINATION

- A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY.
- B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination provided for in subsection A of this Section.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by LOCAL AGENCY by virtue of any breach of this AGREEMENT by CONSULTANT, and LOCAL AGENCY may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due LOCAL AGENCY from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT, except as provided in Article XI C. Upon termination, and upon receipt of payment by CONSULTANT, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

ARTICLE VIII RETENTION OF RECORDS/AUDIT

For the purpose of determining compliance with California Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the CONSULTANT's work and services for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

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

disallowance of prior reimbursed costs.

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

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

Accepted rates will be as follows:

- a. If the proposed rate is less than 150% - the accepted rate reimbursed will be 90% of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be 85% of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be 75% of the proposed rate.
2. If Caltrans A&I is unable to issue a cognizant letter per paragraph E.1. above, Caltrans A&I may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans A&I will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if Caltrans A&I is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this provisional ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the

following items have occurred: (1) Caltrans A&I accepts or adjusts the original or revised independent CPA- audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) Caltrans A&I has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other AGREEMENTS executed between LOCAL AGENCY and the CONSULTANT, either as a prime or Subconsultant, with the same fiscal period ICR. The ICR period shall extend beyond the one-year period and shall be fixed for the life of the contract.

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between LOCAL AGENCY and any Subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its Subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its Subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this AGREEMENT shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. All subcontracts entered into as a result of this AGREEMENT shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within fifteen (15) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY for the work performed by such Subconsultants.
- E. Any substitution of Subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator in advance of assigning work to a substituted Subconsultant(s).

ARTICLE XI EQUIPMENT PURCHASE

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

three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

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

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/DistrictRegion_Map_Construction_7-8-15.pdf)

These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

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

- marked or obliterated.
5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
 6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
- F. Penalty
1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
 4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the

prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:

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

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the sub agreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any Subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTS and Subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and Subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all Subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT, or any ensuing LOCAL AGENCY construction project, which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- C. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or Subconsultant and any firm affiliated with the CONSULTANT or Subconsultant that bids on any construction contract or on any AGREEMENT to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY

shall have the right in its discretion; to terminate this AGREEMENT without liability; to pay only for the value of the work actually performed; or to deduct from this AGREEMENT price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

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

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:
1. No state, federal or LOCAL AGENCY appropriated funds have been paid, or will be paid by- or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any local, State or Federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
 2. If any funds other than Federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed one hundred thousand dollars (\$100,000) and that all such sub recipients shall certify and disclose accordingly.

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California

that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code § 12990 and Title 2 CCR § 8103.

- B. During the performance of this AGREEMENT, CONSULTANT and its Subconsultants shall not discriminate against any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
- C. CONSULTANT and Subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT and Subconsultants shall comply with the provisions of the Fair Employment and Housing Act (California Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of California Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing California Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT, with regard to its work performed under this Agreement and to the extent the California Fair Employment and Housing Commission regulations are applicable to such work, shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its Subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49

CFR Part 21- Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

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

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This AGREEMENT is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.
- B. The goal for DBE participation for this AGREEMENT is 15%. Participation by DBE Consultant or Subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-01), or in the Consultant Contract DBE Information (Exhibit 10-02) attached hereto and incorporated as part of the AGREEMENT. If a DBE Subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE Subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal,

complete and submit Exhibit 15-H: DBE Information - Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

- D. 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 LOCAL AGENCY, CONSULTANT or Subconsultants shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. CONSULTANT shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted contracts. Failure by CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as LOCAL AGENCY deems appropriate which may include:
 - 1) Withholding monthly progress payments;
 - 2) Disqualifying the CONSULTANT from future bidding as non-responsive.
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f). If a DBE Subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE Subconsultant, if the goal is not otherwise met.
- F. Consultant shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of Consultant) pursuant to prior written authorization of the LOCAL AGENCY's Contract Administrator.
- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.
- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, 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.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) 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 CUF.
 - J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
 - K. Upon completion of the AGREEMENT, 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, of the LAPM], certified correct by CONSULTANT or 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 twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.
 - L. If a DBE Subconsultant is decertified during the life of the AGREEMENT, the decertified Subconsultant shall notify CONSULTANT in writing with the date of decertification. If a Subconsultant becomes a certified DBE during the life of the AGREEMENT, the Subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within 30 days.
 - M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance in compliance with the following:
 - Minimum Scope of Insurance:
 - i. CONSULTANT agrees to have and maintain, for the duration of the AGREEMENT, General Liability insurance policies insuring it to an amount not less

than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.

- ii. CONSULTANT agrees to have and maintain for the duration of the AGREEMENT, an Automobile Liability insurance policy ensuring it to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iii. CONSULTANT shall provide to the LOCAL AGENCY all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the LOCAL AGENCY before work commences.
- iv. CONSULTANT agrees to have and maintain, for the duration of the AGREEMENT, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure CONSULTANT for professional errors or omissions in the performance of the particular scope of work under this AGREEMENT.

General Liability:

- i. The LOCAL AGENCY, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the CONSULTANT; products and completed operations of Consultant, premises owned or used by the CONSULTANT. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
- ii. The CONSULTANT's insurance coverage shall be primary insurance as respects the LOCAL AGENCY, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the LOCAL AGENCY, its officers, officials, employees or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.
- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the LOCAL AGENCY, its officers, officials, employees or volunteers.
- iv. The CONSULTANT's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after

thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the LOCAL AGENCY. Current certification of such insurance shall be kept on file at all times during the term of this AGREEMENT with the Town Clerk.

Workers' Compensation. In addition to these policies, CONSULTANT shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the LOCAL AGENCY before beginning services under this AGREEMENT. Further, CONSULTANT shall ensure that all subcontractors employed by CONSULTANT provide the required Workers' Compensation insurance for their respective employees.

Indemnification. CONSULTANT shall save, keep, hold harmless and indemnify and defend the LOCAL AGENCY its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of the negligent act or omissions of the CONSULTANT, or any of the CONSULTANT's officers, employees, or agents or any Subconsultant.

- B. CONSULTANT agrees that the insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.

ARTICLE XX FUNDING REQUIREMENTS

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

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

- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to void the AGREEMENT under the 30-day termination clause pursuant to Article VI, or by mutual agreement of the parties to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

- A. No modification, waiver, mutual termination, or amendment of this AGREEMENT is effective unless made in writing and signed by the LOCAL AGENCY and the CONSULTANT.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY'S Contract Administrator.
- C. There shall be no change in CONSULTANT'S Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY'S Contract Administrator.

ARTICLE XXII CONTINGENT FEE

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

ARTICLE XXIII DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after thirty (30) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

- A. Any dispute, other than audit, concerning a question of fact arising under this

AGREEMENT that is not disposed of by AGREEMENT shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and Public Works Director, who may consider written or verbal information submitted by CONSULTANT.

- B. Not later than 30 days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.**
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.**
- D. In any dispute over any aspect of the AGREEMENT, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.**

ARTICLE XXIV INSPECTION OF WORK

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

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.**
- B. Pursuant to the authority contained in Division 1, Section 591 of the California Vehicle Code, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all applicable requirements set forth in Divisions 11, 12, 13, 14, and 15 of the California Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.**
- C. Any subcontract entered into as a result of this AGREEMENT, shall contain all of the provisions of this Article.**
- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.**

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that subject to CONSULTANT's receipt of payment for its services under this AGREEMENT all materials prepared by CONSULTANT under this AGREEMENT shall become the property of LOCAL AGENCY, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, LOCAL AGENCY shall be entitled to, and CONSULTANT shall deliver to LOCAL AGENCY, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to LOCAL AGENCY which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by LOCAL AGENCY.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of LOCAL AGENCY without restriction or limitation upon its use or dissemination by LOCAL AGENCY.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this AGREEMENT. Any reuse by LOCAL AGENCY for another project or project location shall be at LOCAL AGENCY's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the AGREEMENTS as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other AGREEMENT products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to reasonably cooperate with LOCAL AGENCY.
- B. CONSULTANT's consultation or testimony will be reimbursed at CONSULTANT's then current hourly rates of compensation plus any costs and expenses.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this AGREEMENT are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of LOCAL AGENCY or except as may be required by any law, regulation or government or court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this AGREEMENT, LOCAL AGENCY has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, LOCAL AGENCY's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE XXX EVALUATION OF CONSULTANT

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

ARTICLE XXXI RETENTION OF FUNDS

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

- B. No retainage will be held by the LOCAL AGENCY from progress payments due the CONSULTANT. Any retainage held by the CONSULTANT or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within thirty (30) calendar days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR §26.29) requires that any delay or postponement of payment over thirty (30) calendar days may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of this provision shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified in Business and Professions Code §7108.5. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANT and subconsultants.

ARTICLE XXXII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT:

MOTT MACDONALD GROUP, INC.
ATTN: Chris Metzger, Senior Vice President
2077 GATEWAY PLACE, SUITE 550
SAN JOSE, CA 95110

LOCAL AGENCY:

Town of Los Gatos - Parks and Public Works Department
ATTN: Lisa Petersen, Assistant Public Works Director/Town Engineer
41 Miles Avenue
Los Gatos, CA 95030

ARTICLE XXXIII AGREEMENT

The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.

ARTICLE XXXIV SIGNATURES

Recommended by Department Head:



WHEREOF, THE LOCAL AGENCY AND CONSULTANT HAVE EXECUTED THIS AGREEMENT.

TOWN OF LOS GATOS by:



Laurel Prevetti, Town Manager

CONSULTANT by:



Signature

Chris Metzger, Senior Vice President
Printed Name and Title

Approved as to Form:



Robert Schultz, Town Attorney

Attest:

 10/17/19

Shelley Neis, CMC, Town Clerk

EXHIBIT A SCOPE OF SERVICES

EXHIBIT A – SCOPE OF SERVICES

We have prepared the following scope of services to address the Town’s requested scope in the RFP and additional requirements we anticipate from Caltrans for the successful completion of the project. The design services scope of work is divided into 11 major tasks as follows:

TASK A – Design Services

Mott MacDonald will provide all design services, including but not limited to:

- Project management
- Preliminary engineering
- Environmental studies and documentation
- Utility coordination and right-of-way
- Permits and coordination with other agencies
- Surveys and mapping
- Geotechnical investigations and reports
- Structural and final design and development of all contract documents
- Obtaining the authorization to proceed to construction from Caltrans for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project as described below.

All work for Task A is to be completed within 18 months from the execution of this agreement. Monthly progress payments shall be made based on the percent complete of each task and shall be based on the not to exceed cost per task as shown in Exhibit B – Cost Proposals by Task.

BASIC SERVICES (Tasks A.1 – A.10)

Task A.1 Project Management and Coordination

The Town will serve as the contract manager and direct liaison between Mott MacDonald and Caltrans District 4 Division of Local Assistance; however, Mott MacDonald will provide support to the Town regarding the project steps necessary to deliver the federally funded project consistent with Caltrans and federal reimbursement requirements.

Mott MacDonald will provide project management for each task for the entire duration of the project. Management activities will consist of planning and supervision of all project development tasks, project administration, project meetings, project coordination, and maintaining quality control as stated below.

Supervision

- Oversee technical work by Mott MacDonald Team members, including subconsultants
- Ensure compliance with Town of Los Gatos, Caltrans, Santa Clara Valley Water District processes, codes and standards
- Interface with Caltrans staff to maintain format consistency of all deliverables
- Establish and maintain project files
- Create, monitor, and update the project schedule, including reporting monthly on progress and recommending and implementing adjustments as required

- **Develop a work plan so that the project remains on budget and schedule**
- **Create and implement a Risk Management Plan in accordance with Caltrans requirements**

Administration

- **Prepare and submit monthly progress reports that identify work performed on each task from the preceding month**
- **Engage subconsultants contractually to ensure all contractual obligations are met by all team members**
- **Provide monthly invoices by task that identify percentage complete of each task, expense charges, and subconsultant charges, with support documentation for direct expenses and other charges**

Project Meetings

The Mott MacDonald Team will be responsible for planning, leading, and preparing documentation for project meetings, including preparing and submitting agendas, meeting materials, and meeting minutes for each meeting. The team will attend the following meetings:

- **One (1) kick-off meeting with the Project Team to review and refine the scope of work, work plan, and schedule**
- **In-person PDT meetings with Caltrans and SCVWD staff and subconsultant team members, as required, to review deliverables and resolve comments**
- **Monthly in-person or teleconference meetings with Town staff, key stakeholders, or other agencies**
- **Conducting field reviews/meetings as needed**

A total of ten (10) meetings are budgeted for this project.

Coordination

- **Develop a list of project stakeholders for coordination during project design**
- **Provide and distribute contact information for all project team members**
- **Track action items for the Town**
- **Prepare all submissions for the Town to submit to Caltrans Local Assistance**

Quality Control

- **Perform a thorough review and verification of correction by an independent reviewer**
- **Take corrective actions to rectify findings of non-compliance by a QA/QC review**
- **Document quality reviews, and make findings and corrective actions available for Town's review**

Deliverables:

- **Meeting agenda and minutes**
- **Field review logs**
- **Submittal, Action and Decision documentation logs**
- **Tracking spreadsheets**
- **Caltrans submissions**
- **Project Schedule**
- **Project Work Plan**
- **Risk Management Plan**
- **Progress Reports**

- Invoices

Task A.2 Data Collection, Review, and Site Visit

The Mott MacDonald Team will review all available information provided by Town of Los Gatos, Caltrans, Santa Clara Valley Water District, and other agencies, which will include the following items:

- Previous studies, reports, and documents
- As-built plans
- Utility information
- Aerial photos and mapping
- Survey control data
- Existing right-of-way information
- Geotechnical reports
- Town's adopted Bicycle and Pedestrian Master Plan and other documents related to the project
- Funding parameters and obligations
- Review Town of Los Gatos Standard Specifications and Details for Construction, 2018 Caltrans Standard Specifications and Standard Plans, California Manual of Uniform Traffic Control Devices (CA MUTCD 2014 Revision 3) and other controlling design standards as appropriate

Although the team has already visited the project site multiple times and is very familiar with the project area, we will conduct a field review with the Project Manager and key project staff, to envision the project issues, identify and document concerns, and photograph key aspects that will affect the overall project development effort. The team will produce field notes, photos, and field measurements for use in the project development.

Deliverables:

- Field notes
- Photos
- Video of existing site conditions
- Location of utilities within project area
- Summary or diagram of existing conditions highlighting any special/potential conditions that may affect the final design
- Summary of ADA standards and trail guidelines applicable to the project

Task A.3 Surveys and Mapping

The Mott MacDonald Team, with R.E.Y Engineers leading the surveying effort, will perform design topographic surveys and right-of-way mapping for the project. The topographic information will be compiled to create an existing conditions base map in AutoCAD.

Right-of-way Mapping

R.E.Y. will provide record right-of-way mapping of the project area. Right of way will be based upon preliminary title reports, record maps, deeds, Caltrans right-of-way maps, SCVWD right-of-way maps, and assessor maps. The Town will provide preliminary title reports, if required.

Topographic Mapping

R.E.Y. will perform a topographic survey for design purposes of the project site. R.E.Y. will conduct a detailed field survey to review and record existing conditions in the project area to identify any unusual or special conditions that may affect the design or construction of the project. The field survey for the project area shall include at a minimum, the location of existing facilities, including but not limited to:

- **Los Gatos Creek**
- **The Los Gatos Creek Trail and adjacent land area**
- **Roadways**
- **Sidewalks**
- **Curbs**
- **Gutters**
- **Ramps**
- **Highway 9 overcrossing including the embankments and structural components**
- **Utilities (above, below, and attached to bridge structure if any).**
- **Flood control facilities**
- **Waterways**
- **Outfalls**
- **Trees greater than 6" DBH with tree species identified**
- **Any existing irrigation facilities**
- **Fences and Gates**

Survey shall extend sufficiently beyond the project area to demonstrate proper post project drainage. R.E.Y. will prepare topographic and aerial mapping at a scale of 1"=20' for use in the project design.

Deliverables:

- **Base map(s) in AutoCAD format and survey data sheets**
- **Right of Way Mapping**

Task A.4 Utility Coordination

The complete effort related to utilities for this project includes accurately identifying and mapping existing utilities, identifying and defining any relocations or modifications required by the project, and documenting utilities (those affected and those not affected) in accordance with Caltrans policies.

Mott MacDonald will coordinate early with utility companies to confirm any potential conflicts with existing overhead and underground utilities within the project area. This effort will include the following tasks:

- **Develop utility contacts lists and relocation tracking database**
- **Prepare Utility "A" letters for the Town's signature requesting existing utility information from utility owners within the project vicinity during the preliminary design phase**
- **Schedule and conduct utility coordination meetings with utility owners. Prepare/distribute meetings agendas in advance of each meeting and prepare/distribute meeting minutes within three working days**
- **Prepare Utility "B" letters (Notice to Utility Owners of Conflict) for the Town's Signature at the 65% submittal milestone**
- **Prepare Utility Conflict Maps clearly delineating existing and proposed utilities in current and final locations. Location of proposed utilities in final locations will be based upon design information provided by the affected utility companies**

- Prepare Utility "C" letters (Notice to Utility Owners to Relocate Conflicting Facilities) for the Town Signature at the 95% submittal milestone
- Provide support to the Town to determine liability for utility relocation costs and certify that all utility conflicts are addressed so that Utility Certification (part of ROW Certification) is obtained
- Prepare Utility Agreements to be executed with affected utility companies

Deliverables:

- 'A'+ 'B'+ 'C' Letters for Town signature requesting utility information
- AutoCAD basemap of existing utilities
- Encroachment Permit Applications for site access

Task A.5 Preliminary Engineering

Upon completion of the above and preparation of the base map, Mott MacDonald will develop a preliminary design for up to three alternatives of the project consistent with the project's goals and budget. The preliminary plans will be to roughly a 15% design level and will include plan and profile exhibits over the project base mapping and aerials. The exhibits will allow the Town, stakeholders, and permitting agencies to understand the relative spatial impacts and design elements of the layout. We anticipate up to two (2) iterations of the preliminary design addressing the Town staff comments. The preliminary geometry will be developed considering cost, accessibility and connectivity, safety, design exceptions, environmental impacts, required permits, grading/drainage, right of way, utility relocation, geotechnical/retaining wall, ADA, extent of required demolition activities, construction phasing/staging, and future maintenance considerations.

The Mott MacDonald team will present final preliminary design at two (2) public meetings.

Deliverables:

- Preferred preliminary design and order of magnitude cost estimate for review with Town staff
- Up to three preliminary design alternatives developed to approximately 15% complete
- Presentation of preliminary design at two public meetings – Town to arrange meetings (assume three hours each)

Task A.6 Environmental Studies and Documentation

The Mott MacDonald Team expects that the suitable environmental clearance documents will be a NEPA Categorical Exclusion (CE) and a CEQA Categorical Exemption (CE). It is assumed that Caltrans will serve as the NEPA lead agency and approve the NEPA CE and that the Town will serve as the CEQA lead agency and adopt the CE.

NEPA Environmental Technical Memos and Studies

To support the environmental analysis of the project, the Mott MacDonald team, led by David J. Powers & Associates (DJP&A), will prepare the following technical memos:

- Traffic Technical Memo
- Air Quality (MTC PM2.5 exemption email)
- Water Quality Technical Memo (BMPs during construction)
- Biological Technical Memo:
 - Natural Environmental Study (Minimal Impacts)

- Section 4(f) Enhancement Concurrence Letter
- Cultural Resources Technical Memo
 - Archaeological/Historical Consultants (subconsultant):
 - Area of Potential Effects (APE) Map
 - Historic Property Survey Report (HPSR)
 - Archaeological Survey Report (ASR)
 - Equipment Staging Technical Memo

DJP&A will prepare the traffic, equipment staging, and water quality memo based on information provided by the Project Team. The memos will be prepared based on Caltrans' Standard Environmental Reference (SER) and submitted to the Town for review. DJP&A will revise the memos once and submit them back to the Town for submittal to Caltrans.

Based on review comments by Caltrans, DJP&A, with concurrence from the Town, will revise the memos once for resubmittal to Caltrans. Once the memos are deemed complete by Caltrans, they will issue the NEPA Categorical Exclusion (CE) for use by the City in obtaining federal funding. We believe that the project will qualify as a Categorical Exclusion under NEPA (23 CFR 771.117; (c) (3): Construction of bicycle and pedestrian lanes, paths, and facilities).

CEQA Environmental Clearance

Given the nature of the improvements proposed, we believe the project falls under a Class I Categorical Exemption under CEQA. The Class I exemption as identified in CEQA Section 15301, Existing Facilities (c), "Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety), and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes)." DJP&A will prepare a Categorical Exemption (CE) for the project and submit to Town staff for one round of review. Once approved, DJP&A will file the CE at the Santa Clara County Clerk's office and pay the \$50 filing fee on behalf of the Town.

Deliverables:

- Environmental studies and reports for Categorical Exclusion under NEPA
- Environmental studies and reports for Categorical Exemption under CEQA
- Documentation of activities required by the State Water Resources Control Board
- Incorporation of mitigation measures, if any, into final contract documents
- Location Hydraulic Study Form
- Summary Floodplain Encroachment Report Form

Task A.7 Geotechnical Investigations Reports

Mott MacDonald includes in this scope of services a geotechnical investigation and analysis, geotechnical analyses and preparation of Structures Preliminary Geotechnical Report (SPGR), Preliminary Foundation Report (PFR), and Foundation Report (FR) to support the preparation of the design and construction documents. The scope of geotechnical work includes coordination of an on-site geotechnical investigation, laboratory testing of retrieved soil samples, analysis and reporting of geologic and geotechnical conditions, and providing preliminary and final foundation and construction recommendations. The SPGR will be completed to support Caltrans type selection

process, prior to completion of the geotechnical investigation. The results of the geotechnical investigation will be incorporated in the PFR and FR documents as appropriate for Caltrans procedures.

The geotechnical investigation aims to collect data and soil samples enabling development of geotechnical design parameters for the proposed bridge and retaining wall structures. Mott MacDonald has reviewed previous geotechnical information available for the site by others. Those studies indicate that the subsurface soil comprises dense to very dense silty sand mixed with gravel. The existing highway bridge is founded on shallow spread footings near the creek and the abutments are supported on driven H-pile foundations approximately 40 feet deep. The geotechnical field investigation will comprise a program of near-surface utility clearance activity and drilling of two geotechnical boreholes shown at the proposed locations in Figure 16.

Figure 1: Proposed Borehole Locations (Imagery from GoogleEarth Pro)



Mott MacDonald will coordinate and provide subcontractors to complete the following services:

- Utility Clearance:** In compliance with California law, Mott MacDonald will file a utility clearance ticket with Underground Service Alert (USA). This will require a site visit to identify proposed excavation and drilling locations. A utility locating subcontractor will complete utility clearance activities (electromagnetic detection) at the proposed locations for geotechnical investigation.
- Geotechnical Drilling:** Mott MacDonald will procure the services of Pitcher Drilling, a union drilling contractor. Pitcher Drilling will complete one borehole to a maximum depth of 75 feet below site grades at the southerly abutment location of the proposed bridge. The intent of this borehole is to confirm that conditions are similar to those encountered and described in the contract documents for the construction of the adjacent Highway 9 bridge. Because of poor access, a similar borehole will not be completed at the northerly abutment. A second borehole will be completed on the shoulder of southbound Highway 9 at the location of the start of the existing wooded trail. This borehole will extend to a maximum depth of 50 feet (likely shallower) to characterize the subsurface stratigraphy for support of retaining structures and earthwork fills for construction of the proposed bicycle trail. Soil samples will be retrieved from the boreholes, visually characterized and logged in the field, and stored for transportation to a geotechnical laboratory. The soil boring data collected are used to identify stratigraphic details, soil strength parameters, and soil behavior. Mott MacDonald will obtain drilling permits as required by Santa Clara Valley Water District (SCVWD) and Caltrans requirements, and the explorations will be backfilled with neat cement grout in accordance with SCVWD requirements. To complete the geotechnical investigation, Mott MacDonald will rely on the Town to provide and coordinate access to the existing bicycle trail; Mott MacDonald will provide traffic control and safe working areas to minimize impacts to bicycle traffic.

- **Laboratory Testing:** Mott MacDonald will transport the soil samples obtained to the facility of Inspection Services, Incorporated (ISI), our geotechnical laboratory subcontractor. The soil samples will be tested for corrosivity (using a secondary corrosion specialist laboratory consultant), strength, and physical classification.
- **Analysis and Reporting:** Mott MacDonald will complete geotechnical analyses to develop design parameters and recommendations for deep foundations supporting the proposed bridge and retaining wall structures. The results of the geotechnical investigation, analysis, and recommendations will be documented within PFR, and FR in accordance with Caltrans geotechnical report guidance. An additional Geotechnical Design Report will be prepared in the form of a design memorandum documenting the analyses completed to prepare the PFR and FR. The recommendations in these reports will be directed to the design team for their preparation of plans and specifications for the project and include recommendations for foundation types, seismic information, and construction considerations. It will also include preliminary scour and corrosion evaluations, lateral earth pressure parameters, and seismic design parameters developed from simplified code procedures in AASHTO 2014 with Caltrans Amendments. No site-specific seismic hazard, site response analyses, or numerical pile-soil interaction analyses are anticipated as part of this work.

The preparation of this scope of services above relies on several assumptions documented below. Should the conditions encountered or project requirements vary from our assumptions, we would not embark on additional services without written authorization of the Town.

Deliverables:

- Geotechnical site investigation comprising two boreholes
- Structure Preliminary Geotechnical Report (for structural type selection)
- Preliminary Foundation Report
- Foundation Report
- Geotechnical Design Report (in technical memorandum format)

Task A.8 Right of Way Certification

We do not anticipate that right of way will be required for the project. Mott MacDonald will verify and prepare the appropriate right-of-way certification documents, in accordance with forms and guidelines in Chapter 14 of Caltrans Right of Way Manual. We will evaluate the right of way requirements for the Project. All project improvements including those necessary to accommodate stage construction and temporary access will be included in the evaluation. We will identify staging areas and temporary construction easements for use by the general contractor during construction.

Deliverables:

- Right-of-Way Certification, Utility Certification

Task A.9 Final Design

The Mott MacDonald team will develop and prepare the final design of the project improvements that include but are not limited to trail alignment and profiles, pre-fabricated pedestrian bridge, retaining wall, ramp structure, signing and striping, drainage improvements and stormwater treatment.

Improvements will be designed in accordance with the latest editions of the following Town of Los Gatos, Caltrans, and federal policies, procedures, practices, regulations, manuals and standards:

- Town of Los Gatos Standard Specifications and Details
- Caltrans Highway Design Manual
- Caltrans Standard Plans and Specifications (2018)
- California Manual of Uniform Traffic Control Devices (MUTCD)
- AASHTO “Green Book” – A Policy on Geometric Design of Highways and Street
- AASHTO – Roadside Design Guide
- Accessibility Guidelines for Outdoor Recreation and Trails
- Americans with Disabilities Act Accessibility Guidelines
- California Access Compliance Reference Manual
- Santa Clara Valley Urban Runoff Pollution Prevention Program

Mott MacDonald will prepare Plans, Specifications, and Estimates for final design of the preferred alternative at 35%, 65%, 95% and bid set milestone submittals. Comments received at each submittal will be incorporated into subsequent submittals. At each milestone level, we will monitor the cost estimate to ensure the project stays within the design completion budget and schedules. The following tasks will be performed.

- **35% Submittal:** Mott MacDonald will prepare 20-scale preliminary plans intended to allow the Town to review and comment upon the basic design concepts early in the process. At a minimum, plans include the Town’s Standard Cover Sheet and Title Sheet and all plan sheets that will be included in the final plan set at a 35% completion stage. A listing of all required details will also be provided. Existing conditions and base maps will be developed fully at this stage. The Standard Specifications and Special Provisions will be prepared at a 35% completion level, and the construction cost estimate will include all anticipated cost items with a 20% estimating contingency.
- Biggs Cardosa will prepare Structure Type Selection documents for the proposed bridge including a brief description of key design issues. Bridge General Plan, and Engineer’s Estimate of Probable Construction Costs.
- **65% submittal:** The Mott MacDonald Team will incorporate comments received from the preliminary plan review and prepare 65% PS&E which include all plan sheets developed to a 65% completion stage. It is anticipated that the 65% plan set will include the following plans:
 - Title sheet
 - General Notes
 - Survey Control Data
 - Typical Sections
 - Demolition Plan
 - Layout and Profile
 - Construction Details
 - Structures Plan
 - Structures Details
 - Retaining Walls
 - Drainage & Utility
 - Signing and Pavement Delineation
 - Water Pollution Control Plan

- Construction Staging and Traffic Handling Plan
- Log of Test Borings
- Specifications and Special Provisions at the 65% level will include a complete table of contents with all special provisions necessary for the construction of the project identified. The construction cost estimate will be prepared and will include a 15% estimating contingency.
- **95% submittal:** The Mott MacDonald team will incorporate comments received from the 65% submittal. The 95% PS&E will be the fully developed set of contract documents including all plans sheets, Specifications and Special Provisions, details, and other contract documents necessary for the construction of the project. The construction cost estimate will be finalized and will include a 10% estimating contingency. Mott MacDonald will conduct an internal quality control review of the plans, Specifications, Special Provisions, and construction cost estimate prior to submitting the 95% complete set to coordinate contract documents and make information consistent between all documents.
- Following submission and review of the 95% submittal, Mott MacDonald will prepare and provide the Town with the final contract documents for use in the construction bid process. All contract documents (plans, Specifications, Special Provisions, and estimates) will be signed by the licensed professional engineer in charge of the design.

Deliverables:

- Five hard copy sets of D-size (24"x36") plans and three hard copy sets of B-size (11"x17") Plans
- Five hard copies of the Specifications, Special Provisions
- Five hard copies of Cost Estimates
- MS Word copy of Technical Specifications
- Excel spreadsheet copy of construction cost estimates
- Electronic copies (PDF format) of plans, Technical Specifications and cost estimates
- Plans AutoCAD files
- A signed and stamped mylar copy of the final approved plans
- Final contract documents

Task A.10 Coordination with Stakeholder Agencies

Mott MacDonald will coordinate with Caltrans and Santa Clara Valley Water District to determine the need for and obtain the necessary permits to allow for the construction of the project, including access and staging areas for the anticipated construction stages.

Mott MacDonald will prepare a Standard Encroachment Permit Application form TR-0100 and a Permit Engineering Evaluation Report form TR-0112. The Town will be responsible for Caltrans fees. This task includes budget for two rounds of revisions (Town and Caltrans comments) between application submittal and encroachment permit issuance. Note that supplemental forms and reports that will be submitted with the encroachment permit may change as a result of meetings with Caltrans staff throughout the permit approval process.

Utility and ADA Certification

Caltrans is likely to require several forms, signed by an agent of the Town, to show the project doesn't require major utility relocations, and meets the current ADA design standards. These forms would be prepared by and signed by the Town. However, Mott MacDonald would provide guidance and support in filling out these forms.

Lane Closure Report (LCR) – A LCR will be prepared to determine the duration of Highway 9 lane closures during construction of the Project. Lane closure calculations per Caltrans standard methodology will be performed and submitted to Caltrans for review and approval. This will also include Late Lane Closure Pickup calculations. It is assumed that 7 day 24 hour traffic counts will be provided, and no counts will be performed by the Mott MacDonald Team.

Deliverables:

- Standard Encroachment Permit Application Package and PEER
- ADA Certification
- Lane Closure Report
- Valley Water Encroachment Permit Application

SUPPLEMENTAL REPORTS AND SERVICES - Task A.11

These services or subtasks listed may or may not be required by Caltrans during the design phase process. Should any of the following sub tasks be required, the Consultant will provide the required cost proposal for the work and upon agreement, the Town will provide a written authorization to proceed with the subtask, with deliverables and lump sum payment identified.

There is no guarantee, either expressed or implied, that the services and costs shown for Task A.11 will be authorized in full.

A.11-1 Construction Phase Authorization

Mott MacDonald will support the Town in the preparation of the Request for Authorization to proceed (E-76) forms and exhibits for construction funding applications using procedures outlined in the Caltrans Local Assistance Procedures Manual. Forms include:

- Exhibit 3-D: Request for Authorization to Proceed with Construction
- Exhibit 3-E: Request for Authorization to Proceed Data Sheet
- Exhibit 3-O: Sample Federal-aid Project Finance Letter
- Exhibit 9-D: DBE Contract Goal Methodology
- Exhibit 12D: PS&E Checklist
- Exhibit 13A: Right of Way Certification for Local Assistance Project
- Exhibit 15A: Local Agency Construction Contract Administration Checklist
- Copy of FTIP/FSTIP Reference
- Completed Field Review Form 7B
- Approved NEPA document

Deliverables:

- Authorization from Caltrans to proceed with construction (E-76)

A.11-2 Wetland Technical Assessment

Field Surveys. Impacts will occur to potentially regulated habitats on-site, thus H. T. Harvey & Associates will conduct the field work necessary to prepare a full report representing a delineation of Waters of the U.S./State on the site, which would serve as the Wetland Delineation/Wetland Technical Assessment for the NES. Data on the soils, vegetation, and hydrology within potential wetlands on the site are necessary in order to complete the assessment. H. T. Harvey & Associates propose to delineate the boundaries of Los Gatos Creek and the tributary that runs parallel and adjacent to the proposed trail ramp from eastbound Highway 9 according to methodologies outlined in the USACE Wetland Delineation Manual and other USACE guidance. To that end, a routine, on-site delineation of wetlands that occur in the project area will be conducted. In addition to wetlands, any other potentially jurisdictional features, including "other waters" of the U.S./State, will be delineated and described per USACE and RWQCB requirements. The extent and distribution of "riparian" habitats as defined by CDFW will also be mapped and described within the report and presented on accompanying figures.

Wetland Technical Assessment. H. T. Harvey & Associates will prepare a technical report summarizing the methods and results of the field survey of regulated habitats. This report will be prepared to report specifications developed by the Caltrans, USACE, RWQCB and CDFW and thus will be of sufficient detail for agency review and a jurisdictional determination (in the case of the USACE). It will include a brief description of existing conditions, description of field techniques employed in the delineation, wetland data sheets, and copies of aerial photographs and maps which show the extent of regulated habitats on the project site. This task includes time for HTH senior staff to attend a field site visit with the USACE to verify the delineation.

A.11-3 Extended Phase I Archaeological Survey Report

XPI Fieldwork. Because the project area is sensitive for prehistoric archaeological sites, it is possible that Caltrans will require an Extended Phase I (XPI) Archaeological Survey Report for this project. XPI reports are used in situations where ordinary surface survey is insufficient to determine the presence or absence of cultural resources in a project area. An XPI proposal detailing the aims and methodology of the study is first prepared for Caltrans approval. After approval of the proposal, XPI fieldwork may begin. This proposal assumes that XPI fieldwork, if necessary, will be limited to hand excavation due to access constraints for heavy equipment in the project area. Hand excavation will include 50x50cm surface transect units and hand augering to identify the presence or absence of archaeological deposits. After completion of fieldwork, the XPI Report will be prepared and submitted to Caltrans PQS for review and approval.

Extended Phase I Archaeological Survey Reports. Draft and Final Extended Phase I Archaeological Survey Reports for submission by the City of Los Gatos to Caltrans will be prepared, following the guidelines in the Caltrans Standard Environmental Reference, Volume 2, Exhibit 5.2.

Deliverables:

- Wetland Technical Assessment Report
- Extended Phase I Archaeological Survey Report

A.11-4 Phase I ISA

PARIKH will prepare Phase I Initial Site Assessment study report for the proposed project. ASTM recommends a 1.0-mile radius for the data search. Environmental Data Research Inc. (EDR Inc.) report study will be ordered using an approximate center of the project. The ISA study will be prepared to identify potential hazardous waste sites and evaluate environmental factors that may have impacted the soil groundwater quality within the project limits. The study will include data collection and documents research including historical land use based on study of aerial

photographs and other relevant documents. No field exploration and/or testing are included in this phase of the work.

Deliverables:

- Phase I ISA Report

A.11-5 Additional Studies, Reports, Activities

Design Exception Fact Sheets

Caltrans may require supplemental reports to seek approval of improvements that don't meet all of Caltrans design requirements. These studies include:

- Fact Sheet Exception for Mandatory Design Standards - Includes design standards that require Caltrans headquarters to approve
- Fact Sheet Exception for Advisory Design Standards - These are standards that the local district (District 4) can approve

During the meeting with Caltrans, Mott MacDonald will discuss potential elements that will require design exceptions and prepare a design exception fact sheet if needed. Mott MacDonald will work with Caltrans to minimize the amount of additional work needed for these fact sheets.

Storm Water Data Report (SWDR)

Caltrans may require a supplemental report to document the project's measures to mitigate the project's construction-related impacts to the regional water system. Depending on the project impact to Caltrans right of way, a SWDR will be prepared if required by Caltrans.

A.11-6 Additional Plan Reviews or Design Services

Additional budget request will be submitted in the instance that Caltrans or the Town provide more than one round of review comments to the different reports submitted for Caltrans review or request additional design services.

TASK B – Bid Support Services

Task B.1 Bid Services

Mott MacDonald will respond in writing to questions that arise during the bid phase and will prepare addendums, if necessary, which will be distributed by the Town of Los Gatos - Parks and Public Works Department. Each addendum will address cost implications to the project construction cost estimate. Mott MacDonald will prepare written responses to questions received and addenda in a format that can be easily posted to the Town's website. Following completion of bid stage, Mott MacDonald will incorporate any addenda into the final contract documents and will prepare the final "Conformed Contract Documents." Mott MacDonald will provide an electronic copy of the final Conformed Contract Documents, a signed and stamped mylar copy of the final conformed plans, and a hard copy of the final signed, approved, and stamped conformed Specifications, Special Provisions, and cost estimate. The electronic copy of the plans will be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications and estimate will be provided in both Microsoft Word/Excel format and PDF format.

A separate Notice to Proceed shall be issued by the Town prior to any work proceeding on Task B. All work on Task B shall be completed based on the project bid and award schedule in effect at the time of the Notice to Proceed.

TASK C – Construction Support Services

Task C.1 Construction Support Services

Mott MacDonald will provide the following construction support services as requested:

- Review of submittals and shop drawings for compliance with Contract Documents
- Review and response to Requests for Information, Requests for Change Orders, Quotes from Contractor
- Review of Contract Change Orders
- Review and tracking of results from materials testing for conformation to Contract Documents
- Field review and geotechnical monitoring during bridge installation
- Structural review and field monitoring during bridge installation
- Prepare design modifications if necessary due to unforeseen conditions

A separate Notice to Proceed shall be issued by the Town prior to any work proceeding on Task C. All work on Task C shall be completed based on the project construction schedule in effect at the time of the Notice to Proceed.

General Assumptions

- The Town will furnish any available documents, as-builts, electronic files or information that may be required to complete the design aspect of this scope, including survey monument data and preliminary title reports.
- Town to provide Town's standard CAD border drawing to use for the project.
- Inspection and construction management services are not included in the scope of services.
- Scope does not include right-of-way engineering and right-of-way acquisitions.
- Drilling spoils must be off-hauled but are assumed to be nonhazardous for the purposes of disposal.
- Scour analysis is not required for the bridge supports as the channel is concrete-lined.
- Access to the proposed sites (particularly the bicycle trail) can be provided by the Town between the hours of 7am and 7pm, Monday-Friday (see Figure 6 for proposed locations).
- No point of investigation has been included on the north side of Highway 9 and conditions will be extrapolated from those represented in historical documents for the construction of the highway bridge.
- The Mott MacDonald Team will consider a variety of superstructure types and shapes in the preliminary phase but for the final design, a standard type prefabricated truss is assumed. The Mott MacDonald Team assumes that the superstructure will be designed by the manufacturer and the Construction Documents will include a prefabricated bridge option.
- Mott MacDonald also assumes that Caltrans will accept a prefabricated bridge option in their ROW and will approve the use of a prefabricated steel pedestrian bridge option that will be designed by the manufacturer.
- Mott MacDonald will prepare the design and calculations for the supports of the bridge and the walls.
- The scope of work and fees include a retaining wall at two locations as well as slab on grade ramps.
- Independent check of structural plans will be a red, yellow, and green check of the construction documents and structural calculations that will be performed after the 65% PS&E submittal.

- **PS&E Submittals will be provided at 35%, 65%, 95% and 100% completion levels. Agency reviews are limited to one round of comments consolidated to one set of redline plans, specifications and estimate redline comments per agency. Project Reports will be limited to one draft and one final version of each report. Additional PS&E submittal, agency reviews, and report submittals will be considered Extra Work unless submittals are deemed incomplete.**
- **Plans and specifications shall be prepared following standard Caltrans format as outlined in "Ready-to-List and Construction Contract Award Guide" published by Caltrans.**
- **The Consultant will prepare technical specifications (Caltrans Division 2 through 10) using the 2018 Caltrans Standard Special Provisions (SSPs). The 2018 Caltrans Standard Specifications and the 2018 Caltrans Standard Plans will be referenced in the design documents as applicable. The Town will provide all necessary boilerplate specifications.**
- **Construction Cost Estimates will be prepared based on readily available industry standards and past project experience. Construction Cost Estimates are the Consultant's estimate of the probable construction costs. Actual construction costs may vary based on varying industry trends and competitive Contractor bids and understanding of the project.**
- **Town reviews will be provided concurrently with other Agency reviews.**
- **The Construction Support Services scope of work and fee is assumed based on anticipated project development.**
- **In the event the project design changes and impacts jurisdictional or regulated habitats, a Wetland Technical Assessment (WTA) will be included as an optional task.**
- **In the event Caltrans requires an Extended Phase I (XPI) Archaeological Survey Report, this service will be included as an optional task. Note that if an XPI is needed, an additional 12-16 weeks would be added to the project schedule.**
- **Design scope and fee are based on an assumed maximum design duration of 18 months.**

EXHIBIT B
COST PROPOSALS

COST PROPOSAL BY TASK (for progress payment purposes)

SUB TASK	DESCRIPTION	NOT TO EXCEED COST
TASK A - BASIC SERVICES:		
Task A.1	Project Management and Coordination	\$26,960
Task A.2	Data Collection, Review and Site Visit	\$9,212
Task A.3	Surveys and Mapping	\$27,154
Task A.4	Utility Coordination	\$11,336
Task A.5	Preliminary Engineering	\$27,231
Task A.6	Environmental Studies and Documentation	\$42,991
Task A.7	Geotechnical Investigations and Reports	\$54,489
Task A.8	Right of Way Certification	\$4,400
Task A.9	Final Design	\$198,438
Task A.10	Coordination with Adjacent Agencies	\$6,601
SUBTOTAL BASIC SERVICES		\$408,812
Task A.11	Supplemental Reports and Services	\$49,935
TOTAL NOT TO EXCEED TASK A		\$458,747
TOTAL NOT TO EXCEED TASK B AND TASK C		\$28,000
TOTAL CONTRACT AMOUNT NOT TO EXCEED		\$486,747

TASK A – BASIC SERVICES

**EXHIBITS 10-H1
COST PROPOSALS**

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

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

Note: Mark-ups are Not Allowed

 Prime Consultant SubconsultantConsultant Mott MacDonald, LLCProject No. TLG 18-832-4505, SCL 170028, CML-5067 (021) Contract No. _____ Date 8/29/2019

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
(Project Manager)	Teferi Abere	174	\$ 82.97	\$ 14,436.78
(QA/QC)	Mohammed Basma	16	\$ 115.4	\$ 1,846.40
(Sr. Project Engineer)	Tommy Cho	277	\$ 69.72	\$ 19,312.44
(Project Engineer)	Damtew Ayele	60	\$ 68.0	\$ 4,080.00
(Geotech Lead)	Martin Walker	25	\$ 78.13	\$ 1,953.25
(Geotech Engineer)	Faustas Buskevicius	56	\$ 52.0	\$ 2,912.00
(Geotech Engineer)	Morteza Khorshidi	153	\$ 42.3	\$ 6,471.90
(Engineer IV)	Jared Murphy	40	\$ 58.0	\$ 2,320.00
(Engineer III)	Lauren Sotir	202	\$ 40.87	\$ 8,255.74
(CAD Specialist)	Paola Burk	178	\$ 48.00	\$ 8,544.00

LABOR COSTS

a) Subtotal Direct Labor Costs	\$ 70,132.51
b) Anticipated Salary Increases (see page 2 for calculation)	\$ 1,257.29
c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$ 71,389.80

INDIRECT COSTS

d) Fringe Benefits (Rate: 57.6%)	e) Total Fringe Benefits [(c) x (d)]	\$ 41,120.52
f) Overhead (Rate: 95.5%)	g) Overhead [(c) x (f)]	\$ 68,177.26
h) General and Administrative (Rate: 0%)	i) Gen & Admin [(c) x (h)]	\$ 0
j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]		\$ 109,297.78

FIXED FEES

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee 10% \$ 18,068.76

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs			\$	\$352
Geotechnical Drilling			\$	\$16,675
Permit Fees			\$	\$1,850
Plan Sheets			\$	\$250
Laboratory Test			\$	\$4,400

l) TOTAL OTHER DIRECT COSTS \$ 23,527

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

<u>Subconsultant 1: Biggs Cardosa Associates</u>	<u>\$105,020.00</u>
<u>Subconsultant 2: ActiveWavz Engineering</u>	<u>\$ 41,000.18</u>
<u>Subconsultant 3: David J. Powers & Associates</u>	<u>\$ 64,065.68</u>
<u>Subconsultant 4: R.E.Y Engineers</u>	<u>\$ 26,378.03</u>

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$ 259990.71

TOTAL COST [(c) + (j) + (k) + (n)] \$ 458747.05

NOTES:

1. 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. Indirect cost rates should be based on consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
3. Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)**1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)**

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$70,132.51	1181	=	\$59.38	Year 1 Avg Hourly Rate

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

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$59.38	+	3%	=	\$61.16	Year 2 Avg Hourly Rate
Year 2	\$61.16	+	3%	=	\$63.00	Year 3 Avg Hourly Rate
Year 3	\$63.00	+	3%	=	\$64.89	Year 4 Avg Hourly Rate
Year 4	\$64.89	+	3%	=	\$66.84	Year 5 Avg Hourly Rate

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

	Estimated % Completed Each Year	*	Total Hours per Cost Proposal	=	Total Hours per Year	
Year 1	20.0%	*	1181	=	472	Estimated Hours Year 1
Year 2	60.0%	*	1181	=	709	Estimated Hours Year 2
Year 3	0%	*	0	=	0	Estimated Hours Year 3
Year 4	0%	*	0	=	0	Estimated Hours Year 4
Year 5	0%	*	0	=	0	Estimated Hours Year 5
Total	100%		Total	=	1181	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)	*	Estimated hours (calculated above)	=	Cost per Year	
Year 1	\$59.38	*	472	=	\$28,027.36	Estimated Hours Year 1
Year 2	\$61.16	*	709	=	\$43,362.44	Estimated Hours Year 2
Year 3	\$63.00	*	0	=	\$0.00	Estimated Hours Year 3
Year 4	\$64.89	*	0	=	\$0.00	Estimated Hours Year 4
Year 5	\$66.84	*	0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$71,389.80	
	Direct Labor Subtotal before Escalation			=	\$70,132.51	
	Estimated total of Direct Labor Salary Increase			=	\$1257.29	Transfer to Page 1

NOTES:

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

EXHIBIT 10-H1 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:

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

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

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:Name: Chris MetzgerTitle *: Sr. Vice PresidentSignature: Date of Certification (mm/dd/yyyy): 08/29/2019Email: Chris.Metzger@mottmac.comPhone Number: 408-876-6039Address: 2077 Gateway Place, Suite 550 San Jose CA 95110

*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:

Prepare Plans, Specification & Estimates for Los Gatos Creek Trail to Highway 9 Trailhead Connector Proje

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

ACTUAL, COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Prime Consultant Subconsultant 2nd Tier Subconsultant

Consultant Biggs Cardosa Associates, Inc.

Project No. LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT

Contract No. _____

Date 8/20/2019

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Struct. Project Manager*	M. Harms	38	\$101.54	\$3,858.52
Associate	Varies	0	\$69.52	\$0.00
Engineering Manager	Varies	44	\$65.19	\$2,868.36
Senior Structures Engineer	Varies	216	\$61.16	\$13,210.56
Structures Project Engineer	Varies	140	\$53.08	\$7,431.20
Structures Staff Engineer	Varies	101	\$43.56	\$4,399.56
Structures Assistant Engineer	Varies	0	\$39.23	\$0.00
Senior Computer Drafter	Varies	72	\$51.35	\$3,697.20
Admin Services	Varies	0	\$46.15	\$0.00

LABOR COSTS

611

a) Subtotal Direct Labor Costs	\$35,465.40
b) Anticipated Salary Increases (see page 2 for sample)	\$2,145.66
c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$37,611.06

INDIRECT COSTS

d) Fringe Benefits (Rate: <u>0.00%</u>)	e) Total Fringe Benefit [(c) x (d)]	\$0.00
f) Overhead (Rate: <u>152.03%</u>)	g) Overhead [(c) x (f)]	\$57,180.09
h) General and Administrative (Rate: <u>0.00%</u>)	i) Gen & Admin [(c) x (h)]	\$0.00
j) Total Indirect Costs [(e) + (g) + (i)]		\$57,180

FIXED FEE

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee 10% \$9,479

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit(s)	Unit Cost	Total
Plotting & Reproduction (22x34)	40	EA	\$10.00	\$400.00
Plotting & Reproduction (11x17)	80	EA	\$2.00	\$160.00
Overnight Mail Service (Submittals)	5	EA	\$30.00	\$150.00
Overnight Mail Service (Documents)	5	EA	\$8.00	\$40.00

j) TOTAL OTHER DIRECT COSTS \$750

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1:	_____
Subconsultant 2:	_____
m) TOTAL SUBCONSULTANTS' COSTS	\$0

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$750

TOTAL COST [(c) + (j) + (k) + (n)] \$105,020

NOTES:

- Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All cost must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates should be based on consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)**1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)**

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$35,465.40	611	=	\$58.04	Year 1 Avg Hourly Rate

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

	Avg Hourly Rate	+	Proposed Escalation	=		
Year 1	\$58.04	+	5.0%	=	\$60.95	Year 2 Avg Hourly Rate
Year 2	\$60.95	+	5.0%	=	\$63.99	Year 3 Avg Hourly Rate
Year 3	\$63.99	+	5.0%	=	\$67.19	Year 4 Avg Hourly Rate
Year 4	\$67.19	+	5.0%	=	\$70.55	Year 5 Avg Hourly Rate

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

	Estimated % Completed Each Year	*	Total Hours per Cost Proposal	=	Total Hours per Year	
Year 1	0.00%	*	611.0	=	0.0	Estimated Hours Year 1
Year 2	80.00%	*	611.0	=	488.8	Estimated Hours Year 2
Year 3	20.00%	*	611.0	=	122.2	Estimated Hours Year 3
Year 4	0.00%	*	611.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	611.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	611.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)	*	Estimated hours (calculated above)	=	Cost per Year	
Year 1	\$58.04	*	0	=	\$0.00	Estimated Hours Year 1
Year 2	\$60.95	*	489	=	\$29,790.94	Estimated Hours Year 2
Year 3	\$63.99	*	122	=	\$7,820.12	Estimated Hours Year 3
Year 4	\$67.19	*	0	=	\$0.00	Estimated Hours Year 4
Year 5	\$70.55	*	0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$37,611.06	
	Direct Labor Subtotal before Escalation			=	\$35,465.40	
	Estimated total of Direct Labor Salary Increase			=	\$2,145.66	Transfer to Page 1

NOTES:

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

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

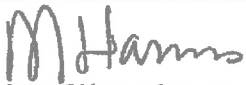
I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

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

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: Malrvash Harms Title *: Principal / Vice President

Signature:  Date of Certification (mm/dd/yyyy): 8/20/2019

Email: mharms@biggscardosa.com Phone Number: 408-296-5515

Address: 865 The Alameda San Jose CA 95126

*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:

Project Management Structural Engineering-design and bid support

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

 Prime Consultant Subconsultant 2nd Tier SubconsultantConsultant ActiveWayz Engineering, Inc.Project No. _____ Contract No. _____ Date 05/29/2019**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
(Project Manager)*	Admas Zewdie	92	\$ 75	\$ 6,900.00
(Sr. Civil Engineer)	Project Engineer	70	\$ 60	\$ 4,200.00
(Envir. Scientist)	Ermias Gebremedhin	152	\$ 40	\$ 6,080.00
(Inspector)**			\$	\$

LABOR COSTS

a) Subtotal Direct Labor Costs \$ 17,180.00
 b) Anticipated Salary Increases (see page 2 for calculation) \$ 518.78
 c) **TOTAL DIRECT LABOR COSTS [(a) + (b)]** \$ 17,698.78

INDIRECT COSTS

d) Fringe Benefits (Rate: _____ %) e) Total Fringe Benefits [(c) x (d)] \$ _____
 Overhead (Rate: 110 %) g) Overhead [(c) x (f)] \$ 19,468.66
 h) General and Administrative (Rate: _____ %) i) Gen & Admin [(c) x (h)] \$ _____
 j) **TOTAL INDIRECT COSTS [(e) + (g) + (i)]** \$ 19,468.66

FIXED FEEk) **TOTAL FIXED FEE [(c) + (j)] x fixed fee 10 %** \$ 3,716.74**l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)**

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs	200	mile	\$0.58	\$116.00
Equipment Rental and Supplies			\$	\$
Permit Fees			\$	\$
Plan Sheets			\$	\$
Test			\$	\$

l) **TOTAL OTHER DIRECT COSTS** \$ 116.00**m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)**

Subconsultant 1: \$ _____
 Subconsultant 2: \$ _____
 Subconsultant 3: \$ _____
 Subconsultant 4: \$ _____

m) **TOTAL SUBCONSULTANTS' COSTS** \$ _____n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)]** \$ 116.00**TOTAL COST [(c) + (j) + (k) + (n)]** \$ 41,000.18**NOTES:**

- 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.
- The cost proposal format shall not be amended. 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.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL PAGE 2 OF 3
ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

Consultant ActiveWyrz Engineering Contract No. _____ Date: 5/29/2019

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	Avg Hourly Rate	3 Year Contract Duration
\$17,180.00	314	\$ 54.71	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (increase the Average Hourly Rate for a year by proposed escalation %)

Year	Avg Hourly Rate	Proposed Escalation	Year Avg Hourly Rate
Year 1	\$54.71	3.0%	\$56.35
Year 2	\$56.35	3.0%	\$58.05
Year 3	\$58.05	3.0%	\$59.79
Year 4	\$59.79	3.0%	\$61.58
			0

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

Year	Estimated % Completed Each Year	Total Hours per Cost Proposal	Total Hours per Year
2019	33.33%	314.0	104.7
2020	33.33%	314.0	104.7
2021	33.33%	314.0	104.7
Year 4	0.00%	314.0	0.0
Year 5	0.00%	314.0	0.0
Total	100%	Total	314.0

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

Year	Avg Hourly Rate (calculated above)	Estimated hours (calculated above)	Cost per Year
Year 1	\$54.71	105	\$5,726.09
Year 2	\$56.35	105	\$5,897.88
Year 3	\$58.05	105	\$6,074.81
Year 4	\$59.79	0	\$0.00
Year 5	\$61.58	0	\$0.00
Total Direct Labor Cost with Escalation			\$17,698.78
Direct Labor Subtotal before Escalation			\$17,180.00
Estimated total of Direct Labor Salary Increase			\$518.78

NOTES:

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

EXHIBIT 10-H1 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:

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

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: Admas Zewdie, P.E. Title *: President
 Signature :  Date of Certification (mm/dd/yyyy): 03/25/2019
 Email: admas@activewayz.engineering Phone Number: 408-219-5678
 Address: 114 Woodhams Road, Santa Clara, CA 95051

*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:

Utility coordination
 Right of Way certification
 Quality control review
 Construction staging and traffic handling plans
 Water pollution control plans
 Design exception fact sheet
 Storm water data report; lane closure report

Exhibit 10-H1 Cost Proposal Page 2 of 3**Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) Contracts**
(Calculations for Anticipated Salary Increases)**1. Calculate average hourly rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)**

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	Avg Hourly Rate	10 Year Contract Duration
\$ 6,959.76 /	142	= \$49.01	Year 1 Avg Hourly Rate

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

	Avg Hourly Rate	Proposed Escalation			
Year 2	\$49.01	+ 3%	=	\$50.48	Year 2 Avg Hourly Rate
Year 3	\$50.48	+ 3%	=	\$52.00	Year 3 Avg Hourly Rate
Year 4	\$52.00	+ 3%	=	\$53.56	Year 4 Avg Hourly Rate
Year 5	\$53.56	+ 3%	=	\$55.16	Year 5 Avg Hourly Rate

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

	Estimated % Completed Each Year	Total Hours per Cost Proposal	Total Hours per Year	
Year 1	100.00%	* 142	= 142	Estimated Hours Year 1
Year 2	0.00%	* 142	= 0	Estimated Hours Year 2
Year 3	0.00%	* 142	= 0	Estimated Hours Year 3
Year 4	0.00%	* 142	= 0	Estimated Hours Year 4
Year 5	0.00%	* 142	= 0	Estimated Hours Year 5
Total	100%	Total	= 142	

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

	Avg Hourly Rate (calculated above)	Estimated hours (calculated above)	Cost per Year	
Year 1	\$49.01	* 142	= \$6,959.76	Estimated Hours Year 1
Year 2	\$50.48	* 0	= \$0.00	Estimated Hours Year 2
Year 3	\$52.00	* 0	= \$0.00	Estimated Hours Year 3
Year 4	\$53.56	* 0	= \$0.00	Estimated Hours Year 4
Year 5	\$55.16	* 0	= \$0.00	Estimated Hours Year 5
Total Direct Labor Cost with Escalation			= \$6,959.76	
Direct Labor Subtotal before escalation			= \$ 6,959.76	
Estimated total of Direct Labor Salary Increase			= \$0.00	Transfer to Page 1

NOTES:

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

Exhibit 10-H1 Cost Proposal Page 2 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:

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

6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

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

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: Judy W. Shanley

Title*: President

Signature:



Date of Certification (mm/dd/yyyy): 8/29/2019

Email: jshanley@davidjpowers.com

Phone Number: 408-454-3431

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:

Complete NEPA (CE) and CEQA (CE) environmental review process.

Exhibit 10-H1 Cost Proposal Page 1 of 3

Actual Cost-Fix-Fixed Fee or Lump Sum (Firm Fixed Price) contracts
(Design, Engineering and Environmental Studies)

Note: Mark-ups are Not Allowed Prime Consultant Subconsultant 2nd Tier Subconsultant

Consultant **Archaeological/Historical Consultants**

Project No. _____ Contract No. _____ Date: _____

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Principal	Daniel Shoup	58	\$ 65.00	3770.00
Archaeologist I	Kimberly Wong	38	\$ 37.50	1425.00
Historian I	Jennifer Ho	17	\$ 40.00	680.00
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
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				0.00
				0.00
				0.00
				0.00
				0.00

LABOR COSTS

- a) Subtotal Direct Labor Costs \$ 5,875.00
- b) Anticipated Salary Increases (see page 2 for calculation) \$ 75.44
- c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$ 5,948.44**

FRINGE BENEFITS

- d) Fringe Benefits (Rate: 45.00%) e) Total Fringe Benefits [(c) x (d)] \$ 2,676.80
- f) Overhead (Rate: 65.00%) g) Overhead [(c) x (f)] \$ 3,866.48
- h) General and Administrative (Rate: [Included in Overhead Rate]) i) Gen & Admin [(c) x (h)] \$ NA
- j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$ 6,543.28**

FIXED FEE

k) TOTAL FIXED FEE [(c) + (j) x fixed fee 10.00%] \$ 1,249.17

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
NWIC Record Search	1	Search	528.32	\$ 528.32
Mileage	500	miles	0.58	\$ 290.00
Postage	10	stamps	0.55	\$ 5.50
Traffic Control	24	hours	120	\$ 2,880.00
Private Utility Locator	4	hours	100	\$ 400.00
l) TOTAL OTHER DIRECT COSTS				\$ 4,103.82

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

- Subconsultant 1: \$ -
- Subconsultant 2: \$ -
- Subconsultant 3: \$ -
- Subconsultant 4: \$ -
- m) TOTAL SUBCONSULTANTS' COSTS \$ -**

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)] \$ 4,103.82
TOTAL COST [(c) + (j) + (k) + (n)] \$ 17,844.71

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. 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.
 3. Anticipated salary increases calculation (page 2) must accompany.

Exhibit 10-H1 Cost Proposal Page 2 of 3**Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) Contracts
(Calculations for Anticipated Salary Increases)****1. Calculate average hourly rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)**

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	Avg Hourly Rate	10 Year Contract Duration
\$ 5,875.00 /	113 =	\$51.99	Year 1 Avg Hourly Rate

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

Avg Hourly Rate	Proposed Escalation		
Year 2 \$51.99 +	5%	=	\$54.59 Year 2 Avg Hourly Rate
Year 3 \$54.59 +	5%	=	\$57.32 Year 3 Avg Hourly Rate
Year 4 \$57.32 +	5%	=	\$60.19 Year 4 Avg Hourly Rate
Year 5 \$60.19 +	5%	=	\$63.20 Year 5 Avg Hourly Rate

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

Estimated % Completed Each Year	Total Hours per Cost Proposal	Total Hours per Year
Year 1 75.00% *	113 =	84.75 Estimated Hours Year 1
Year 2 25.00% *	113 =	28.25 Estimated Hours Year 2
Year 3 0.00% *	113 =	0 Estimated Hours Year 3
Year 4 0.00% *	113 =	0 Estimated Hours Year 4
Year 5 0.00% *	113 =	0 Estimated Hours Year 5
Total 100%	Total =	113

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

Avg Hourly Rate (calculated above)	Estimated hours (calculated above)	Cost per Year
Year 1 \$51.99 *	84.75 =	\$4,406.25 Estimated Hours Year 1
Year 2 \$54.59 *	28.25 =	\$1,542.19 Estimated Hours Year 2
Year 3 \$57.32 *	0 =	\$0.00 Estimated Hours Year 3
Year 4 \$60.19 *	0 =	\$0.00 Estimated Hours Year 4
Year 5 \$63.20 *	0 =	\$0.00 Estimated Hours Year 5
Total Direct Labor Cost with Escalation	=	\$5,948.44
Direct Labor Subtotal before escalation	=	\$ 5,875.00
Estimated total of Direct Labor Salary Increase	=	\$73.44 Transfer to Page 1

NOTES:

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

Exhibit 10-H1 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:

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

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

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: Daniel Shoup

Title *: Principal



Signature:

Date of Certification (mm/dd/yyyy): 5/20/2019

Email: daniel.shoup@ahc-heritage.com

Phone Number: 510-654-8635

Address: 609 Aileen Street, Oakland CA 94609

***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:

Cultural Resources documents for Caltrans environmental review.

Exhibit 10-H1 Cost Proposal Page 1 of 3

Actual Cost-Plus-Fixed Fee or ~~lump sum~~ (Firm Fixed Price) contracts
(Design, Engineering and Environmental Studies)

Note: Mark-ups are Not Allowed
 Prime Consultant Subconsultant 2nd Tier Subconsultant
 Consultant **H. T. Harvey & Associates**
 Project No. _____ Contract No. _____ Date: **May 28, 2019**

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Principal	Steve Rottenborn	5	\$ 87.50	437.50
Principal	Kelly Hardwicke	11	\$ 62.98	692.79
Senior Associate Ecologist			\$ 57.45	0.00
Associate Ecologist			\$ 50.72	0.00
Senior Ecologist 2	Mark Bibbo	29.25	\$ 45.19	1321.88
Senior Ecologist 1			\$ 40.99	0.00
Ecologist 2	Craig Fosdick	37	\$ 36.54	1351.92
Ecologist 1	Matthew Mosher	81	\$ 32.45	2628.61
Field Biologist 2			\$ 28.73	0.00
Field Biologist 1			\$ 25.48	0.00
Senior GIS Analyst	Mark Lagarde	1.25	\$ 50.00	62.50
GIS Analyst	Michele Childs	18.75	\$ 36.06	676.08
Technical Editor	Jessica Hughes	6	\$ 36.30	217.79
Senior Technical Support	Liesl Brass	1	\$ 38.70	38.70
Technical Support	Liza Bodistow	5	\$ 22.50	112.50

LABOR COSTS

a) Subtotal Direct Labor Costs \$ 7,540.26
 b) Anticipated Salary Increases (see page 2 for calculation) \$ -
c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$ 7,540.26

FRINGE BENEFITS

d) Fringe Benefits (Rate: 100.70%) c) Total Fringe Benefits [(c) x (d)] \$ 7,592.79
 f) Overhead (Rate: 104.40%) g) Overhead [(c) x (f)] \$ 7,871.71
 h) General and Administrative (Rate: [Included in Overhead Rate]) i) Gen & Admin [(c) x (h)] \$ NA
j) TOTAL INDIRECT COSTS [(c) + (g) + (i)] \$ 15,464.50

FIXED FEE

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee 10.00% \$ 2,308.48

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs		mile	0.58	\$ -
Motion-Sending Cameras		units	10	\$ -
Per Diem Lodging, Meals and Incidentals		night		\$ -
GIS Charges	20	hour	10	\$ 200.00
				\$ -
l) TOTAL OTHER DIRECT COSTS				\$ 200.00

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1: \$ -
 Subconsultant 2: \$ -
 Subconsultant 3: \$ -
 Subconsultant 4: \$ -
m) TOTAL SUBCONSULTANTS' COSTS \$ -

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)] \$ 200.00
TOTAL COST [(c) + (j) + (k) + (n)] \$ 25,505.24

NOTES:

- 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.
- The cost proposal format shall not be amended. 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.
- Anticipated salary increases calculation (page 2) must accompany.

Exhibit 10-H1 Cost Proposal Page 2 of 3**Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) Contracts**
(Calculations for Anticipated Salary Increases)**1. Calculate average hourly rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)**

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	Avg Hourly Rate	10 Year Contract Duration
\$ 7,540.26 /	195.25	= \$38.62	Year 1 Avg Hourly Rate

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

	Avg Hourly Rate		Proposed Escalation			
Year 2	\$38.62	+	3%	=	\$39.78	Year 2 Avg Hourly Rate
Year 3	\$39.78	+	3%	=	\$40.97	Year 3 Avg Hourly Rate
Year 4	\$40.97	+	3%	=	\$42.20	Year 4 Avg Hourly Rate
Year 5	\$42.20	+	3%	=	\$43.47	Year 5 Avg Hourly Rate

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

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	100.00%	*	195.25	=	195.25	Estimated Hours Year 1
Year 2	0.00%	*	195.25	=	0	Estimated Hours Year 2
Year 3	0.00%	*	195.25	=	0	Estimated Hours Year 3
Year 4	0.00%	*	195.25	=	0	Estimated Hours Year 4
Year 5	0.00%	*	195.25	=	0	Estimated Hours Year 5
Total	100%		Total	=	195.25	

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

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$38.62	*	195.25	=	\$7,540.26	Estimated Hours Year 1
Year 2	\$39.78	*	0	=	\$0.00	Estimated Hours Year 2
Year 3	\$40.97	*	0	=	\$0.00	Estimated Hours Year 3
Year 4	\$42.20	*	0	=	\$0.00	Estimated Hours Year 4
Year 5	\$43.47	*	0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation	=			\$7,540.26	
	Direct Labor Subtotal before escalation	=			\$ 7,540.26	
	Estimated total of Direct Labor Salary Increase	=			\$0.00	Transfer to Page 1

NOTES:

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

Exhibit 10-H1 Cost Proposal Page 2 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:

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

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

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: Karin Hunsicker

Title *: CEO

Signature: 

Date of Certification (mm/dd/yyyy): 8/12/2019

Email: kshunsicker@harveyecology.com

Phone Number: 408.458.3206

Address: 983 University Ave, Bldg D, Los Gatos, CA 95032

*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:

Preparing a Natural Environment Study -- Minimal Impacts (NES-MI), including a site and tree survey. Performing a wetland delineation.
--

EXHIBIT 10-H1 COST PROPOSAL (Page 2 of 3)**ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS**
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)**1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)**

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	Avg Hourly Rate	5 Year Contract Duration
\$7,564.94	/ 161.0	= \$46.99	Year 1 Avg Hourly Rate

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

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$46.99	+	5.0%	=	\$49.34	Year 2 Avg Hourly Rate
Year 2	\$49.34	+	5.0%	=	\$51.80	Year 3 Avg Hourly Rate
Year 3	\$51.80	+	5.0%	=	\$54.39	Year 4 Avg Hourly Rate
Year 4	\$54.39	+	5.0%	=	\$57.11	Year 5 Avg Hourly Rate

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

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	100%	*	161.0	=	161.0	Estimated Hours Year 1
Year 2		*	161.0	=	0.0	Estimated Hours Year 2
Year 3		*	161.0	=	0.0	Estimated Hours Year 3
Year 4		*	161.0	=	0.0	Estimated Hours Year 4
Year 5		*	161.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	161.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1 \$	46.99	*	161.0	=	\$7,564.94	Estimated Hours Year 1
Year 2 \$	49.34	*	0.0	=	\$0.00	Estimated Hours Year 2
Year 3 \$	51.80	*	0.0	=	\$0.00	Estimated Hours Year 3
Year 4 \$	54.39	*	0.0	=	\$0.00	Estimated Hours Year 4
Year 5 \$	57.11	*	0.0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$7,564.94	
	Direct Labor Subtotal before escalation			=	\$7,564.94	
	Estimated total of Direct Labor Salary Increase			=	\$0.00	Transfer to Page 1

NOTES:

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

EXHIBIT 10-H1 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:

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

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Suconsultant Certifying:

Name: Mike Shoup, PLS Title*: Bay Area Regional Manager, Survey Principal

Signature:  Date of Certification (mm/dd/yyyy): 8/20/2019

Email: mshoup@revengineers.com Phone Number: 408-219-3236

Address: 505 14th Street, Suite 900, Oakland, CA 94612

*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 this proposed contract:

Land Surveying

TASKS B & C

**EXHIBITS 10-H3
COST PROPOSALS**

EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

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

Note: Mark-ups are Not Allowed

 Prime Consultant SubconsultantConsultant Mott MacDonaldProject No. TLG 18-832-4505, SCL
170028, CML - 5067 (021)

Contract No. _____

Date 8/13/2019**Unit/Item of Work:****(Example: Log of Test Boring for Soils Report, or ADL Testing for Hazardous Waste Material Study)**
Include as many Items as necessary.

DIRECT LABOR	Hours	Billing Hourly Rate (\$)	Total (\$)
Professional (Classification)*	126	\$150.79	\$19,000
Sub-professional/Technical**	_____	_____	_____
EQUIPMENT 1 (with Operator)	_____	_____	_____
EQUIPMENT 2 (with Operator)	_____	_____	_____

Consultant's Other Direct Costs (ODC) – Itemize:

Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			\$	\$
ODC Example: Mobilization/De-mobilization			\$	\$
ODC Example: Supplies/Consumables			\$	\$
ODC Example: Report			\$	\$
ODC (List more ODCs as applicable)			\$	\$
Subconsultant 1: Biggs Cardosa Associates				\$ 9,000
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$
Subconsultant 5:				\$

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK**\$ 28,000****NOTES:**

- All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
- Hourly billing rates should be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- ODC items shall be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered "tools of the trade" are not reimbursable.
- Billing Hourly Rates must be actual, allowable, and reasonable.

EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

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:


- 13. Generally Accepted Accounting Principles (GAAP)
- 14. Terms and conditions of the contract
- 15. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 16. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 17. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 18. [48 Code of Federal Regulation 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: Chris Metzger

Title*: Sr. Vice President

Signature: 

Date of Certification (mm/dd/yyyy): 08/13/2019

Email: Chris.Metzger@mottmac.com

Phone Number: 408-876-6039

Address: 2077 Gateway Place, Suite 550 San Jose CA 95110

* 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:

Provide bid and construction support services for Los Gatos Creek Trail to Highway 9 Trailhead Connector Project

EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2
COST PER UNIT OF WORK CONTRACTS
(GEOTECHNICAL AND MATERIAL TESTING)

Note: Mark-ups are Not Allowed

Prime Consultant Subconsultant 2nd Tier Subconsultant

Consultant Biggs Cardosa Associates

Project No. TLG 18-832-4505 Contract No. _____ Date May 20, 2019

Unit/Item of Work:

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

DIRECT LABOR	Hours	Billing Hourly Rate (\$)	Total (\$)
Professional (Classification)*	50 max.	180	\$9,000
Sub-professional/Technical**	_____	_____	_____
EQUIPMENT 1 (with Operator)	_____	_____	_____
EQUIPMENT 2 (with Operator)	_____	_____	_____

Consultant's Other Direct Costs (ODC) - Itemize:

Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			\$	\$
ODC Example: Mobilization/De-mobilization			\$	\$
ODC Example: Supplies/Consumables			\$	\$
ODC Example: Report			\$	\$
ODC (List more ODCs as applicable)			\$	\$
Subconsultant 1:				\$
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$
Subconsultant 5:				\$

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK **\$ \$9,000**

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. The cost proposal format shall not be amended.
2. Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
4. ODC items shall be based on actual costs and supported by historical data and other documentation.
5. ODC items that would be considered "tools of the trade" are not reimbursable.
6. Billing Hourly Rates must be actual, allowable, and reasonable.

EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

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:

- 13. Generally Accepted Accounting Principles (GAAP)
- 14. Terms and conditions of the contract
- 15. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 16. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 17. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 18. [48 Code of Federal Regulation 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: Mahvash Harms Title*: Vice President

Signature : Digitally signed by Mahvash Harms
DN: cn=Mahvash Harms, o=Biggs Cardosa Associates, ou, email=mharms@biggscardosa.com, c=US
Date: 2018.05.20 14:45:40 -0700 Date of Certification (mm/dd/yyyy): May 20, 2019

Email: mharms@biggscardosa.com Phone Number: 408-839-8878

Address: 865 The Alameda San Jose CA

* 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:

Respond to questions that arise during the bid phase, prepare addendums, Review of submittals and shop drawings, Structural reviews, Review and response to Requests for Information.

EXHIBIT C

**ADDITIONAL
CALTRANS FORMS**

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: Town of Los Gatos Parks and Public Works De 2. Contract DBE Goal: 15%
 3. Project Description: Design and construction documents for the Los Gatos Creek Trail to Hwy 9 Trailhead Connector
 4. Project Location: Los Gatos Creek Trail at Highway 9
 5. Consultant's Name: Mott MacDonald, LLC 6. Prime Certified DBE: 7. Total Contract Award Amount: \$486,747
 8. Total Dollar Amount for ALL Subconsultants: \$245,464 9. Total Number of ALL Subconsultants: 6

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Utility coordination, right of way certification, plan review and coordination	043754	ActiveWayz Engineerin (510)989-2420, admas@activewayz.engineering.com	\$41,000
Environmental documentation	38205	David J Powers, (408) 454-3422, dloukas@davidjpowers.com	\$20,716
Cultural Resources Consulting	6JN00016	AHC (510) 654-8635, info@ahc-heritage.com	\$17,845
Local Agency to Complete this Section			
20. Local Agency Contract Number _____		14. TOTAL CLAIMED DBE PARTICIPATION	\$ 79,561
21. Federal-Aid Project Number: _____			16.3 %
22. Contract Execution Date: _____		<p>IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.</p> <p style="text-align: right;">9/19/2019</p> <p>15. Preparer's Signature _____ 16. Date _____</p> <p>Chris Metzger (408) 876-6039</p> <p>17. Preparer's Name _____ 18. Phone _____</p> <p>Senior Vice President</p> <p>19. Preparer's Title _____</p>	
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			
23. Local Agency Representative's Signature _____	24. Date _____		
25. Local Agency Representative's Name _____	26. Phone _____		
27. Local Agency Representative'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 COMMITMENT**CONSULTANT 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 17-F FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS

8. Contract Item Number	9. Description of Work, Service, or Materials Supplied	10. Company Name and Business Address	11. DBE Certification Number	12. Contract Payments		13. Date Work Completed	14. Date of Final Payment	
				Non-DBE	DBE			
15. ORIGINAL DBE COMMITMENT AMOUNT \$							16. TOTAL	

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subcontractors/subconsultants were used on the contract, indicate on the form:

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

17. Contractor/Consultant Representative's Signature _____ 19. Phone _____ 20. Date _____

I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED

21. Local Agency Representative's Signature _____ 22. Local Agency Representative's Name _____ 23. Phone _____ 24. Date _____

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

ADA NOTICE: For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials provided. Indicate all work to be performed by DBEs including work performed by the prime contractor/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. Company Name and Business Address** - Enter the name, address, and phone number of all subcontracted contractors/consultants. Also, enter the prime contractor/consultant's name and phone number, if the prime is a DBE.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. Leave blank if subcontractor is not a DBE.
- 12. Contract Payments** - Enter the subcontracted dollar amount of the work performed or service provided. Include the prime contractor/consultant if the prime is a DBE. The Non-DBE column is used to enter the dollar value of work performed by firms that are not certified DBE or for work after a DBE becomes decertified.
- 13. Date Work Completed** - Enter the date the subcontractor/subconsultant's item work was completed.
- 14. Date of Final Payment** - Enter the date when the prime contractor/consultant made the final payment to the subcontractor/subconsultant for the portion of work listed as being completed.
- 15. Original DBE Commitment Amount** - Enter the "Total Claimed DBE Participation Dollars" from Exhibits 15-G or 10-O2 for the contract.
- 16. Total** - Enter the sum of the "Contract Payments" Non-DBE and DBE columns.
- 17. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 18. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 19. Phone** - Enter the area code and telephone number of the person signing the form.
- 20. Date** - Enter the date the form is signed by the contractor's preparer.
- 21. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 23. Phone** - Enter the area code and telephone number of the person signing the form.
- 24. Date** - Enter the date the form is signed by the Local Agency Representative.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/17/21

ITEM NO: 9

DATE: August 12, 2021
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute the First Amendment to the Consultant Services Agreement with Mott MacDonald Group, Inc. for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) in an Amount Not to Exceed \$90,000 for a Total Contract Amount of \$576,747

RECOMMENDATION:

Authorize the Town Manager to execute the First Amendment to the Consultant Services Agreement with Mott MacDonald Group, Inc. for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) in an amount not to exceed \$90,000 for a total contract amount of \$576,747.

BACKGROUND:

The adopted Fiscal Year (FY) 2021/22-2025/26 Capital Improvement Program (CIP) Budget designates funding for the design of the Trailhead Connector Project (CIP No. 832-4505).

On October 1, 2019, the Town Council awarded a consultant services agreement in the amount of \$486,747 to Mott MacDonald Group, Inc. for the design and preparation of the final design documents for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project. The project is partially funded by \$343,000 of federal funds from the One Bay Area Grant, Cycle II. Since this is a federal-aid project on the State Highway System, the contracting and project delivery procedures must strictly follow the Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) guidelines.

A preliminary design of the project was presented to the Complete Streets and Transportation Commission (CSTC) and to the community in February 2020. The design included a switchback

PREPARED BY: WooJae Kim
Town Engineer

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Director of Parks and Public Works

PAGE 2 OF 4

SUBJECT: Authorize the Town Manager to Execute the First Amendment to the Consultant Services Agreement with Mott MacDonald Group, Inc. for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) in an Amount Not to Exceed \$90,000 for a Total Contract Amount of \$576,747

DATE: August 12, 2021

BACKGROUND (continued):

ramp structure for pedestrians on the northern side of Highway 9 just west of the southbound Highway 17 offramp and a ramped path with a creek overcrossing on the southern side of Highway 9. Both the CSTC and the public provided valuable input and support for the project. On March 3, 2020, the Town Council approved the preliminary design and authorized staff to proceed with the final design. The project team developed the 35% completed design plans soon after, which were submitted to Caltrans for their review on April 6, 2020.

DISCUSSION:

As required for the Right of Way Certification process, the Town planned on obtaining an encroachment permit from Caltrans for the construction of the trail connectors as required for working on Caltrans right of way. During the review of the 35% design plans, Caltrans informed the Town that much of the land where the Los Gatos Creek Trail and the concrete lined channel for the creek are located (between Miles Avenue and just north of Highway 9) had been designated as "excess parcels" certified for sale.

Caltrans staff stated that an encroachment permit cannot be issued on excess parcels certified for sale. These excess parcels are remnants from the construction of Highway 17 and the concrete lined channel in the 1950's. Caltrans provided maps from 1997 and 2010 that indicated the excess parcel designations, which were not readily available or relayed to the Town during the earlier phases of the project design. Caltrans was not clear why the property rights or easements for the Town were not established when the Los Gatos Creek Trail was constructed in this area in 1994.

Staff has been working extensively with Caltrans towards a resolution of this complicated land rights issue, which must be resolved before the project can receive the Right of Way Certification and the final project approvals from Caltrans. Following further discussions with Caltrans, staff will return to Council with a proposal regarding the land rights issue for Council's consideration.

This property land rights issue, in addition to numerous additional research and studies required by Caltrans for the environmental clearance process, has impacted the project schedule and the initial design budget. An amendment to the consultant services agreement in the amount of \$90,000 is needed to complete the project design. Following is a list of additional services currently required:

- Additional project management services for the extended project duration

PAGE 3 OF 4

SUBJECT: Authorize the Town Manager to Execute the First Amendment to the Consultant Services Agreement with Mott MacDonald Group, Inc. for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) in an Amount Not to Exceed \$90,000 for a Total Contract Amount of \$576,747

DATE: August 12, 2021

DISCUSSION (continued):

- Additional meetings with Caltrans and the Town
- Additional topographic survey data as requested by Caltrans
- Additional soil sampling and testing required by Caltrans
- Additional structural calculations required by Caltrans
- Potential landscaping design needs

Currently, 65% design plans have been completed and submitted to Caltrans. Final design documents are now anticipated to be completed by early 2022. The current scope of services for Mott MacDonald Group includes support services during the bid, award and construction phases of the project, which will be delayed since the construction funding has not been secured. Staff will continue to actively pursue grant opportunities, but the earliest anticipated timeframe for construction funding is now early 2023. The proposed contract amendment will extend the contract term period for Mott MacDonald Group to December 31, 2023.

As the project progresses, staff will continue to update the Town Council, CSTC, and the public. Updates will also be posted on the project webpage on the Town's Connect Los Gatos website at <https://www.losgatosca.gov/ConnectLG>.

CONCLUSION:

Approval of the first amendment to the consultant services agreement with Mott MacDonald Group would allow the project to move forward with the final design.

FISCAL IMPACT:

There is sufficient funding in the FY 2021/22 CIP Budget to cover the amendment to the consultant services agreement for the Trailhead Connector Project.

Staff costs are tracked for all projects. Tracking of staff costs allows for accountability in the costs of the project, recovery of costs for grant funded projects, and identification of future staffing needs. This project will utilize both full-time budgeted and part-time staff. The costs for full-time staff are accounted for in the Department's Operating Budget. Only part-time staff costs incurred will be charged to the project as necessary.

PAGE 4 OF 4

SUBJECT: Authorize the Town Manager to Execute the First Amendment to the Consultant Services Agreement with Mott MacDonald Group, Inc. for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) in an Amount Not to Exceed \$90,000 for a Total Contract Amount of \$576,747

DATE: August 12, 2021

FISCAL IMPACT (continued):

Trailhead Connector Project Project 832-4505		
	Budget	Costs
OBAG Cycle II Grant	\$ 343,000	
GFAR	\$ 333,044	
Total Budget	\$ 673,440	
Design Contract with Mott MacDonald		\$ 486,747
First Amendment to Design Contract		\$ 90,000
Part-Time Staff Cost (Design Phase)		\$ 90,000
Prior Year Expenditures (Advertising)		\$ 490
Total Costs		\$ 667,237
Remaining Balance		\$ 6,203

ENVIRONMENTAL ASSESSMENT:

The Town's consultant has completed and submitted the required environmental studies and reports to Caltrans. The California Environmental Quality Act (CEQA) categorical exemption and National Environmental Protection Act (NEPA) categorical exclusion have been signed by Caltrans and submitted by Caltrans to the State Clearing House and the Notice of Exemption for the project has been posted.

Attachments:

1. First Amendment to Agreement for Consultant Services with Mott MacDonald Group
2. Original Agreement for Consultant Services

EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

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

Note: Mark-ups are Not Allowed

Prime Consultant Subconsultant

Consultant Biggs Cardosa Associates

Project No. TLG 18-832-4505, SCL 170028, CML – 5067 (021) Contract No. _____ Date 2/5/2023

Unit/Item of Work:

(Example: Log of Test Boring for Soils Report, or ADL Testing for Hazardous Waste Material Study)

Include as many Items as necessary.

DIRECT LABOR	Hours	Billing Hourly Rate (\$)	Total (\$)
Professional (Associate)	<u>16</u>	<u>\$234.27</u>	<u>\$3,748</u>
Professional (Senior Engineer)	<u>16</u>	<u>\$206.10</u>	<u>\$3,298</u>
Professional (Project Engineer)	<u>11</u>	<u>\$177.66</u>	<u>\$1,954</u>
 EQUIPMENT 1 (with Operator)	 _____	 _____	 _____
EQUIPMENT 2 (with Operator)	_____	_____	_____

Consultant's Other Direct Costs (ODC) – Itemize:

Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			\$	\$
ODC Example: Mobilization/De-mobilization			\$	\$
ODC Example: Supplies/Consumables			\$	\$
ODC Example: Report			\$	\$
ODC (List more ODCs as applicable)			\$	\$
Subconsultant 1:				\$
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$
Subconsultant 5:				\$

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK **\$ 9,000**

NOTES:

1. All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
2. Hourly billing rates should be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
4. ODC items shall be based on actual costs and supported by historical data and other documentation.
5. ODC items that would be considered "tools of the trade" are not reimbursable.
6. Billing Hourly Rates must be actual, allowable, and reasonable.

EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

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:

13. Generally Accepted Accounting Principles (GAAP)
14. Terms and conditions of the contract
15. [Title 23 United States Code Section 112](#) - Letting of Contracts
16. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
17. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
18. [48 Code of Federal Regulation 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: Mahvash HarmsTitle*: Principal/Vice PresidentSignature : Date of Certification (mm/dd/yyyy): 02/16/2023Email: mharms@biggscardosa.comPhone Number: 408-550-8528Address: 1111 Broadway, Suite 1510, Oakland CA 94607-4036

* 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:

The following services will be provided during bid

- Assist in responding to questions from bidders and preparing addendums
- Attend preconstruction meeting
- Assist in responding to RFI's

EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

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

Note: Mark-ups are Not Allowed

 Prime Consultant SubconsultantConsultant Mott MacDonaldProject No. TLG 18-832-4505, SCL Contract No. _____ Date 2/5/2023
170028, CML – 5067 (021)**Unit/Item of Work:**

(Example: Log of Test Boring for Soils Report, or ADL Testing for Hazardous Waste Material Study)

Include as many Items as necessary.

DIRECT LABOR	Hours	Billing Hourly Rate (\$)	Total (\$)
Professional (Project Manager)*	<u>20</u>	<u>\$283.82</u>	<u>\$5,676</u>
Sub-professional/(Engineer IV)	<u>25</u>	<u>\$197.36</u>	<u>\$4,934</u>
Sub-professional/(Engineer III)	<u>60</u>	<u>\$139.84</u>	<u>\$8,390</u>
EQUIPMENT 1 (with Operator)	_____	_____	_____
EQUIPMENT 2 (with Operator)	_____	_____	_____

Consultant's Other Direct Costs (ODC) – Itemize:

Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			\$	\$
ODC Example: Mobilization/De-mobilization			\$	\$
ODC Example: Supplies/Consumables			\$	\$
ODC Example: Report			\$	\$
ODC (List more ODCs as applicable)			\$	\$
Subconsultant 1: Biggs Cardosa Associates				\$ 9,000
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$
Subconsultant 5:				\$

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK**\$ 28,000**

NOTES:

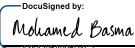
- All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
- Hourly billing rates should be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- ODC items shall be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered "tools of the trade" are not reimbursable.
- Billing Hourly Rates must be actual, allowable, and reasonable.

EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2**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:

13. Generally Accepted Accounting Principles (GAAP)
14. Terms and conditions of the contract
15. [Title 23 United States Code Section 112](#) - Letting of Contracts
16. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
17. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
18. [48 Code of Federal Regulation 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: Mohamed BasmaTitle*: Sr. Vice PresidentSignature : Date of Certification (mm/dd/yyyy): 02/16/2023Email: Mohamed.basma@mottmac.comPhone Number: 408-807-0481Address: 2077 Gateway Place, Suite 550 San Jose CA 95110

* 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:

The following services will be provided during bid and construction phases:

- Responding to questions from bidders, preparing addendums, preparing conformed plans
- Attending preconstruction meeting
- Responding to RFI's