FIRST AMENDMENT TO SERVICE PROVIDER AGREEMENT

This FIRST AMENDMENT TO SERVICE PROVIDER AGREEMENT ("First Amendment"), is entered into this _____ day of _____, 2024 (the "Effective Date"), by and between the CITY OF ALAMEDA, a municipal corporation (the "City"), and CSG CONSULTANTS, INC., a California corporation, whose address is 550 Pilgram Drive, Foster City, CA 94404 (the "Provider"), with reference to the following facts and circumstances:

RECITALS:

A. On July 13, 2022, an agreement was entered into by and between City and Provider ("Original Agreement") in an amount not to exceed \$750,000.

B. City and Provider desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, City and Provider agree as follows:

1. Section 2 ("Services to be Performed") of the Agreement is modified to read as follows:

"Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested. The Provider acknowledges that the list of services included in Exhibit A is tentative and does not commit the City to request Provider to perform all tasks included therein."

2. Paragraph 3 ("Compensation to Provider") of the Agreement is modified to read as follows:

"a. By the 7th day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be according to the fee schedule as set forth in Exhibit A and incorporated herein by this reference. Extra work must be approved in writing by the City Manager or his/her designee prior to performance and shall be paid on a Time and Material basis as set forth in Exhibit A."

"b. The total five-year compensation for this Agreement shall not exceed \$2,280,206."

3. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

Signatures on Next Page

IN WITNESS WHEREOF, the parties have caused this modification of Agreement to be executed on the day and year first above written.

CSG CONSULTANTS, INC. A California Corporation

inpou

CITY OF ALAMEDA A Municipal Corporation

Jennifer Ott City Manager

Nomithta

Nourdin Khayata Secretary

RECOMMENDED FOR APPROVAL

Signed by:

Erin Smith Public Works Director

APPROVED AS TO FORM: City Attorney

-DocuSigned by: Ler Aslanian

Lerrs Asslamisan Assistant City Attorney

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS

Note: Mark-ups are Not Allowed

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES) ☑ Prime Consultant □ Subconsultant

 \Box 2nd Tier Subconsultant

Consultant CSG Consultants, Inc.

Contract No. _____ Date 04/16/2024

DIRECT LABOR

Project No.

Classification/Title	Name	Hours	Actual Hourly Rate	Total
RE/Sr Principal Eng AR	Nourdin Khayata	1,520.00	\$ 112.02	\$ 170,270.40
ARE/OE Principal Eng	Nasser Fakih	1,520.00	\$ 110.58	\$ 168,081.60
Inspector	Bassam Badr	3,120.00	\$ 77.17	\$ 240,770.40
Inspector	Peiman Moghadman	576.00	\$ 65.81	\$ 37,906.56
LABOR COSTSa) Subtotal Direct Labob) Anticipated Salary I	or Costs ncreases (see page 2 for calculation)		\$ 617,028.96 7,384.77	
 INDIRECT COSTS d) Fringe Benefits (Rat f) Overhead (Rate: <u>117</u> h) General and Admin 	te: 3 <u>0.16%</u>) e) Total Fringe Ben 7.79%) g) Over		\$ 735,496.93	<u>\$ 624,413</u> .73
	, ,		T COSTS [(e) + (g) + (i)]	\$ 969,090.11

FIXED FEE

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee 10.00%] \$159,350.38

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

Description of Item	Quantity	Unit	Unit Cost	Total
eBuilder license fees - 1st Construction Year	7	EA	\$ 1.500.00	\$ 10.500.00
eBuilder license fees - 2nd Construction Year	7	EA	\$ 1,500.00	\$ 10,500.00
Permit Fees				\$ 0.00
Plan Sheets				\$ 0.00
Test				\$ 0.00
	1) TOTAL O	THER DIR	RECT COSTS	\$ 21 000 00

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

Subconsultant 1: ISI Inspection Servcies	\$ 354,770.84
Subconsultant 2: Stantec	\$ 10,000.00
Subconsultant 3: Callendar Associates	\$ 23,000.00
Subconsultant 4: MIG, Inc.	\$ 10.000.00
m) TOTAL SUBCONSULTANTS' COSTS	\$ 397,770.84
n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)]	\$ 418,770.84
TOTAL COST $[(c) + (j) + (k) + (n)]$	\$ 2,171,625.06

NOTES:

 Key personnel <u>must</u> 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

COST-PLUS-FIXED FEE OR LUMP SUM OR 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 <u>Subtotal</u> per Cost Proposal	Total Hours per Cost Proposal		Avg Hourly Rate	5 Year Contract Duration
\$250,000.00	500	=	\$50.00	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	I	Proposed Escalati	ion		
Year 1	\$50.00	+	2%	=	\$51.00	Year 2 Avg Hourly Rate
Year 2	\$51.00	+	2%	=	\$52.02	Year 3 Avg Hourly Rate
Year 3	\$52.02	+	2%	=	\$53.06	Year 4 Avg Hourly Rate
Year 4	\$53.06	+	2%	=	\$54.12	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%	*	5000	=	1000	Estimated Hours Year 1
Year 2	40.0%	*	5000	=	2000	Estimated Hours Year 2
Year 3	15.0%	*	5000	=	750	Estimated Hours Year 3
Year 4	15.0%	*	5000	=	750	Estimated Hours Year 4
Year 5	10.0%	*	5000	=	500	Estimated Hours Year 5
Total	100%		Total	=	5000	

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	\$50.00	*	1000	=	\$50,000.00	Estimated Hours Year 1
Year 2	\$51.00	*	2000	=	\$102,000.00	Estimated Hours Year 2
Year 3	\$52.02	*	750	=	\$39,015.00	Estimated Hours Year 3
Year 4	\$53.06	*	750	=	\$39,795.30	Estimated Hours Year 4
Year 5	\$54.12	*	500	=	\$27,060.80	Estimated Hours Year 5
	Total Direct Labor C	Cost wit	h Escalation	=	\$257,871.10	
	Direct Labor Subtota	al befor	e Escalation	=	\$250,000.00	
	Estimated total of	Direct I	Labor Salary	=		Transfer to Page 1
			Increase		\$7,871.10	

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 \times 2\% \times 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. <u>Title 23 United States Code Section 112</u> Letting of Contracts
- 4. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 5. <u>23 Code of Federal Regulations Part 172</u> Procurement, Management, and Administration of Engineering and Design Related Service
- 6. <u>48 Code of Federal Regulations Part 9904 Cost Accounting Standards Board</u> (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:	Title *:
Signature :	Date of Certification (mm/dd/yyyy): 04/17/2024
Email: <u>nourdin@csgengr.com</u>	Phone Number: <u>650-333-0831</u>
Address: 550 Pilgrim Drive, Foster City, CA 94404	

*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:

ISI Inspection Servcies - Inspection and special inspection servcies. Stantec - Paleontological Services Callendar Associates - Arborist MIG, Inc. - Biological services Local Assistance Procedures Manual

NOT APPLICABLE

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowe Consultant		🗆 Prime Consult	tant 🗆 Subconse	ultant	□ 2 nd Tier Subconsultant
Project No	Contract No	Parti	cipation Amount \$		Date
For Combined Rate					
	Fringe Benefit % + General &Adminis	trative %		=	Combined ICR%
		OR			
For Home Office Rate					
	Fringe Benefit % + General & Adminis	trative %		=	Home Office ICR%
For Field Office Rate	Fringe Benefit % + General &Adminis	trative %		=	Field Office ICR%
			Fee	=	%

BILLING INFORMATION

CALCULATION INFORMATION

				Series			1	
Name/Job Title/Classification ¹	Hou Straight ³	rly Billing R OT(1.5x)		Effective Date From	of Hourly Rate To	Actual or Avg. Hourly Rate⁴	% or \$ Increase	Hourly Range - for Classifications Only
John Doe – Project Manager * Civil Engineer II	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	01/01/2017	12/31/2016 12/31/2017 12/31/2018	\$0.00 \$0.00 \$0.00	0.0% 0.0%	Not Applicable
Sue Jones – Construction Engineer/Inspector Engineer I	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	01/01/2017	12/31/2016 12/31/2017 12/31/2018	\$0.00 \$0.00 \$0.00	0.0% 0.0%	Not Applicable
Buddy Black – Claims Engineer Engineer III	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	01/01/2017	12/31/2016 12/31/2017 12/31/2018	\$0.00 \$0.00 \$0.00	0.0% 0.0%	Not Applicable
Land Surveyor **	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	01/01/2017	12/31/2016 12/31/2017 12/31/2018	\$0.00 \$0.00 \$0.00	0.0% 0.0%	\$00 - \$00 \$00 - \$00 \$00 - \$00
Technician	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	01/01/2017	12/31/2016 12/31/2017 12/31/2018	\$0.00 \$0.00 \$0.00	0.0% 0.0%	\$00 - \$00 \$00 - \$00 \$00 - \$00

(Add pages as necessary)

Local Assistance Procedures Manual

NOTES:

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

EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant	Prime Consultant	Subconsultant

Project No	
-------------------	--

Contract No.

Date _____

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)					
Description of Item	Quantity	Unit	Unit Cost	Total	
Mileage Costs	2	1	\$ 10.00	\$ 20.00	
Equipment Rental and Supplies	2	EA	\$ 20.00	\$ 40.00	
Permit Fees	3		\$ 30.00	\$ 90.00	
Plan Sheets				\$ 0.00	
Test				\$ 0.00	
Vehicle				\$ 0.00	
Subconsultant 1: ISI Inspection Servcies \$100					
Subconsultant 2: Stantec \$20					
Subconsultant 3: Callendar Associates \$					
Subconsultant 4: MIG, Inc. \$500				\$ 500.00	
Subconsultant 5:					

Note: Add additional pages if necessary.

NOTES:

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

Local Assistance Procedures Manual

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

EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

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

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

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

Prime Consultant or Subconsultant Certifying:

Name:	Title*:
Signature :	Date of Certification (mm/dd/yyyy): 04/17/2024
Email: <u>nourdin@csgengr.com</u>	Phone Number: <u>650-333-0831</u>
Address: 550 Pilgrim Drive, Foster City, CA 94404	

* 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:

Docusign Envelope ID: 17A41A6C-9BAC-45FA-8D66-C8796C736EDA

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	☑ 2 nd Tie	r Subconsultant	
Consultant CSG Consultants, Inc.					
Project No Contract No Date 04/16/2024				04/16/2024	
<u>Unit/Item of Work:</u> (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 (\$)	

BIREOTERBOIR	riours	Dining Houriy Rate (\$)	
Professional (Classification)*			
Sub-professional/Technical**			
EQUIPMENT 1 (with Operator)	yy		1 <u> </u>
EQUIPMENT 2 (with Operator)			

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

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs	2	1	\$ 10.00	\$ 20.00
Equipment Rental and Supplies	2	EA	\$ 20.00	\$ 40.00
Permit Fees	3		\$ 30.00	\$ 90.00
Plan Sheets		1 =		\$ 0.00
Test				\$ 0.00
Subconsultant 1: ISI Inspection Servcies		>		\$ 100.00
Subconsultant 2: Stantec				\$ 200.00
Subconsultant 3: Callendar Associates				\$ 300.00
Subconsultant 4: MIG, Inc.				\$ 500.00
Subconsultant 5:				

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK

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).
- Mobilization/De-mobilization is based on site location and number and frequency of tests/items. 3.
- 4. 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. 5.
- 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. <u>48 Code of Federal Regulations Part 31</u> Contract Cost Principles and Procedures
- 17. <u>23 Code of Federal Regulations Part 172</u> Procurement, Management, and Administration of Engineering and Design Related Service
- 18. <u>48 Code of Federal Regulation Part 9904 Cost Accounting Standards Board</u> (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:

CSG Consultants, Inc. Name:	Senior Principal Engineer Title*:
Signature :	Date of Certification (mm/dd/yyyy): 04/17/2024
Email: <u>nourdin@csgengr.com</u>	Phone Number: 650-333-0831
Address: 550 Pilgrim Drive, Foster City, CA 94404	

* 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:

ISI Inspection Servcies - Inspection and special inspection servcies. Stantec - Paleontological Services Callendar Associates - Arborist MIG, Inc. - Biological services

A	CORD	EP	T 17						CSPANGLER2 E (MM/DD/YYYY)
CE	IIS CERTIFICATE IS ISSUED AS A ERTIFICATE DOES NOT AFFIRMATIVELOW. THIS CERTIFICATE OF INSU	MAT		OF INFORMATION ONLY NEGATIVELY AMEND, EX DOES NOT CONSTITUTE	AND CONFERS	NO RIGHTS	UPON THE CERTIFICAT	E HO	HE POLICIES
IM If	PRESENTATIVE OR PRODUCER, AN PORTANT: If the certificate holder SUBROGATION IS WAIVED, subject is certificate does not confer rights to	is an t to	AD	DITIONAL INSURED, the pol terms and conditions of the	policy, certain	oolicies may	NAL INSURED provision require an endorsement	sorl t. As	be endorsed. statement on
PROD Allia	bucer License # 0C36861 nt Insurance Services, Inc. Mission St 6th Fl Francisco, CA 94105	lie		CO NA PH (A)	MTACT ME: ONE C, No, Ext): (415) 9 MAIL DRESS:		FAX (A/C, No):		
					INS	URER(S) AFFOR	RDING COVERAGE		NAIC #
				INS	SURER A : Genera	Casualty	Co of WI (QBE)		24414
INSU	RED			INS	SURER B : North P	ointe Insur	ance Company		27740
	CSG Consultants, Inc.			INS	SURER C : QBE Ins	surance Co	rporation		39217
	550 Pilgrim Drive			IN	SURER D : Praetor	ian Insurar	ice Company		37257
	Foster City, CA 94404				SURER E : Pacific	Insurance	Company, Limited		10046
CO	VERAGES CERT	TIFIC	ATE	NUMBER:	×		REVISION NUMBER:		
IN	IIS IS TO CERTIFY THAT THE POLICIES DICATED. NOTWITHSTANDING ANY RE ERTIFICATE MAY BE ISSUED OR MAY ICLUSIONS AND CONDITIONS OF SUCH F		AIN,	INT, TERM OR CONDITION O	OF ANY CONTRAD O BY THE POLIC EN REDUCED BY	CT OR OTHER	R DOCUMENT WITH RESPE	O AL	O WHICH THIS
A	X COMMERCIAL GENERAL LIABILITY	INSD	WVD		(MM/DD/TTT)		EACH OCCURRENCE	\$	1,000,000
~	CLAIMS-MADE X OCCUR	x	x	CGA1414883	12/4/2023	12/4/2024	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	1,000,000
		^	^	0041414000	12/112020		MED EXP (Any one person)	\$	10,000
							PERSONAL & ADV INJURY	\$	1,000,000
					0		GENERAL AGGREGATE	\$	2,000,000
	POLICY PRO- JECT X LOC						PRODUCTS - COMP/OP AGG	\$ \$	2,000,000
в							COMBINED SINGLE LIMIT	\$	1,000,000
5	X ANY AUTO	~	v	161001088	12/4/2023	12/4/2024	(Ea accident) BODILY INJURY (Per person)	\$	
	OWNED SCHEDULED	x	X	101001000	12/4/2020	12/112021	BODILY INJURY (Per accident)	s	
							PROPERTY DAMAGE (Per accident)	s	
	HIRED NON-OWNED AUTOS ONLY							s	
С	X UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	\$	5,000,000
-	EXCESS LIAB CLAIMS-MADE			191000608	12/4/2023	12/4/2024	AGGREGATE	\$	
	DED X RETENTION \$ 10,000						Aggregate	\$	5,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER OTH- STATUTE ER		
	ANY PROPRIETOR/PARTNER/EXECUTIVE			152000753	12/4/2023	12/4/2024	E.L. EACH ACCIDENT	\$	1,000,000
	OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A					E.L. DISEASE - EA EMPLOYEE	\$	1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	\$	1,000,000
E	Professional Liab			83 OH 0489503-23	12/4/2023	12/4/2024	Ded:\$50K		5,000,000
Re: and Can	CRIPTION OF OPERATIONS / LOCATIONS / VEHICL Service Provider Agreement for Cross A commissions, officials, employees and cellation per attached. 10 Day Notice of red endorsements on GL & Auto attach	volu Cano	eda T	rail / Ramp (aka CAT/RAMP) is are included as additional i	Peer and Constru nsureds on on G	L & Auto with	New. City of Alameda, its Waiver of Subrogation a	nd 30	Day Notice of

CERTIFICATE HOLDER CANCELLATION PUBLIC WORKS CITY OF ALAMEDA SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. **City of Alameda** Attn: Jeanette / City of Alameda 950 West Mall Square, Room 110 AUTHORIZED REPRESENTATIVE Alameda, CA 94501 NJ B.Cm

ACORD 25 (2016/03)

© 1988-2015 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT — NOTICE TO OTHERS OF CANCELLATION

SCHEDULE*

Name and Address of Person or Organization	Number of Days Notice
City of Alameda, 950 West Mall Square, Room 110, Attn: Jeanette, Alameda, CA 94501	30
*Information required to complete this Schedule, if not shown on this endorsement, will be shown Declarations.	in the

The following is added to the policy:

- A. If we cancel the policy by notice to the first Named Insured, for any reason other than nonpayment of premium, we will mail or deliver a copy of such written notice of cancellation to the person(s) or organization(s) shown in the Schedule above.
- **B.** Any copy of notice per paragraph **A.** above will be mailed or delivered:
 - To the address corresponding to each person or organization indicated in the Schedule above; and
 - At least the number of days set forth in the Schedule prior to the cancellation date applicable to the policy, as advised in our notice to the first Named Insured.

- **C.** If notice per paragraph **A.** is mailed, proof of mailing will be sufficient proof of notice.
- D. Written notices mailed or delivered by us pursuant to the terms of this endorsement are intended only to be an advance notification to the person(s) or organization(s) named in the Schedule of this endorsement in the event of a pending cancellation and shall not operate or be deemed to benefit, directly or indirectly, any person or organization not named in the Schedule above.

All other terms and conditions of the policy remain unchanged.



PREMIER GENERAL LIABILITY COVERAGE EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

A. REASONABLE FORCE

Paragraph 2.a. Expected or Intended Injury under COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY of SECTION I — COVERAGES within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM is replaced by:

a. Expected or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect any person or property.

B. CONTRACTUAL LIABILITY

Paragraph 2.b. Contractual Liability under COVERAGE A. BODILY INJURY AND PROP-ERTY DAMAGE LIABILITY of SECTION I — COVERAGES within the COMMERCIAL GEN-ERAL LIABILITY COVERAGE FORM is replaced by:

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have had in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement.

C. NON OWNED WATERCRAFT

Paragraph 2.g.(2) in the Aircraft, Auto Or Watercraft exclusion under COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY of SECTION I — COVERAGES within the COM-MERCIAL GENERAL LIABILITY COVERAGE FORM is replaced by:

g. Aircraft, Auto Or Watercraft

- (2) A watercraft you do not own that is:
 - (a) less than 75 feet long; and
 - (b) Not being used to carry persons or property for a charge.

D. ELECTRONIC DATA LIABILITY

- Paragraph 2.p. Electronic Data under COV-ERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY of SECTION I — COV-ERAGES within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM is replaced by:
 - p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

However, this exclusion does not apply to liability for damages because of "bodily injury".

2. The following definition is added to SEC-TION V — DEFINITIONS:

"Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- For purposes of the coverage provided for "Electronic Data", Paragraph 17. in SEC-TION V — DEFINITIONS is replaced by:
 - 17. "Property damage" means:
 - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

DEC 07 2023

Includes copyrighted material of Insurance Services Office, Inc., with its permission OF ALAMEDA

- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it; or
- c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For purposes of this insurance, "electronic data" is not tangible property.

E. DAMAGE TO PREMISES RENTED TO YOU

 The last paragraph after the listed exclusions under COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY of SEC-TION I — COVERAGES within the COM-MERCIAL GENERAL LIABILITY COVER-AGE FORM is replaced by:

Exclusions c. through n. do not apply to "property damage" by fire; smoke from a "hostile fire"; explosion; lightning; smoke resulting from such explosion or lightning; collision by "mobile equipment" or leakage from fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in SECTION III — LIMITS OF IN-SURANCE.

- Paragraph 6. of SECTION III LIMITS OF INSURANCE within the COMMERCIAL GENERAL LIABLITY COVERAGE FORM is replaced by:
 - 6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay in any one event under COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE for damages because of "property damage" from fire; smoke from a "hostile fire"; explosion; lightning; smoke resulting from such explosion or lightning; collision by "mobile equipment" or leakage from fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner.

F. MEDICAL PAYMENTS

1. Paragraph 1.a. under COVERAGE C. MEDICAL PAYMENTS of SECTION I — COVERAGES within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM is replaced by:

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations:

Provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within three years of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonable require.

G. SUPPLEMENTARY PAYMENTS

SUPPLEMENTARY PAYMENTS — COVERAG-ES A AND B of SECTION I COVERAGES within the COMMERCIAL GENERAL LIABILITY COV-ERAGE FORM is replaced by:

- We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - a. All expenses we incur.
 - b. Up to \$5,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
 - e. All costs taxed against the "insured" in any "suit".
 - Frejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

Includes copyrighted material of insurance Services Office, Inc., with its permissions CITY OF ALAMEDA

g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit" and to the "suit" and to the "suit" and to the "suit" and to the suit of th

(b) Conduct and control the defense of the indemnitee in such "suit".

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f**. above, are no longer met.

H. FELLOW EMPLOYEE COVERAGE — SUPERVISOR OR HIGHER

Paragraph 2.a.(1) of SECTION II — WHO IS AN INSURED within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM does not apply to the following:

Your supervisory or management "employees" for "bodily injury" only.

Damages owed to an injured co-"employee" or "volunteer worker" will be reduced by any amount paid or available to the injured co-"employee" or "volunteer worker" under any other valid and collectible insurance.

I. NEWLY ACQUIRED ORGANIZATIONS

Paragraph 3.a. of SECTION II — WHO IS AN INSURED within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM is replaced by:

a. Coverage under this provision is afforded only until the end of the current policy period.

J. BROAD FORM NAMED INSURED

The following is added to SECTION II — WHO IS AN INSURED within the COMMERCIAL GEN-ERAL LIABILITY COVERAGE FORM:

Throughout this policy the words "you" and "your" refer to any corporation or other business organization, other than a joint venture, in which the first Named Insured has or acquires during the policy period an ownership interest of more than 50% and is subject to the management control of the first Named Insured or its subsidiaries, and which is domiciled within the United States of America or its territories or possessions.

K. AMENDMENT OF AGGREGATE LIMIT OF INSURANCE

The General Aggregate Limit Of Insurance referenced in Paragraph 2. of SECTION III — LIMITS OF INSURANCE within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM applies separately to:

1. Each of your "locations" owned by or rented to you; and

Includes copyrighted material of Insurance Services Office, Inc.,

PUBLIC WORKS CITY OF ALAMEDA

2. Each of your projects away from premises owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

L. KNOWLEDGE OF OCCURRENCE

The following is added to Paragraph 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit of SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM:

Knowledge of an "occurrence", offense, claim or "suit" by your agent, servant or "employee" shall not be considered knowledge by you unless you, your insurance manager or any other person you designate has received notice of the "occurrence", offense, claim or "suit" from your agent, servant, or "employee."

M. OTHER INSURANCE

Paragraph 4.b.(1)(a) in the Other Insurance condition of SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS within the COMMERCIAL GENERAL LIABILITY COVER-AGE FORM is replaced by:

4. Other Insurance

- b. Excess Insurance
 - (1) This insurance is excess over:
 - (a) any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builders Risk; Installation Risk or similar coverage for "your work";
 - (ii) That is insurance covering Fire; smoke from a "hostile fire"; explosion; lightning; smoke resulting from such explosion or lightning; collision by "mobile equipment" or leakage from fire protection systems for premises while rented to you or temporarily occupied by you with permission of the owner; or

- (iii) That is insurance to cover your liability as a tenant for "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner; or
- (iv) If the loss arises out of the maintenance or use of aircraft. "autos", or watercraft to the extent not subject to Paragraph 2.g. Aircraft, Auto Or Watercraft under COVER-AGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY of SECTION I -COVERAGES within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM.
- N. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

The following is added to Paragraph 6. Representations of SECTION IV — COM-MERCIAL GENERAL LIABILITY CONDITIONS within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM:

Any unintentional failure to disclose all exposures or hazards existing as of the effective date of the Commercial General Liability Coverage Form or at any time during the policy period will not invalidate or adversely affect the coverage for such exposure or hazard. However, you must report the undisclosed exposure or hazard to us as soon as reasonably possible after the exposure or hazard is discovered.

O. WAIVER OF SUBROGATION

The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS within the COMMER-CIAL GENERAL LIABILITY COVERAGE FORM:

This condition does not apply to any person or organization to which you waived this condition by written contract or agreement, but only to the extent that subrogation is waived prior to the "bodily injury" or "property damage" under a contract with that person or organization.

P. LIMITED WORLDWIDE LIABILITY COVERAGE

The following is added to SECTION IV — CON-DITIONS within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM:



Includes copyrighted material of Insurance Services Office, Inc., with its permission. PUBLIC WORKS CITY OF ALAMEDA

Expanded Coverage Territory

 If a "suit" is brought in a part of the "coverage territory" that is outside the United States of America (including its territories and possessions), Puerto Rico or Canada, and we are prevented by law, or otherwise, from defending the insured, the insured will initiate a defense of the "suit". We will reimburse the insured, under Supplementary Payments, for any reasonable and necessary expenses incurred for the defense of a "suit" seeking damages to which this insurance applies, that we would have paid had we been able to exercise our right and duty to defend.

If the insured becomes legally obligated to pay sums because of damages to which this insurance applies in a part of the "coverage territory" that is outside the United States of America (including its territories and possessions), Puerto Rico or Canada, and we are prevented by law, or otherwise, from paying such sums on the insured's behalf, we will reimburse the insured for such sums.

- 2. All payments or reimbursements we make for damages because of judgments or settlements will be made in U.S. currency at the prevailing exchange rate at the time the insured became legally obligated to pay such sums. All payments or reimbursements we make for expenses under Supplementary Payments will be made in U.S. currency at the prevailing exchange rate at the time the expenses were incurred.
- Any disputes between you and us as to whether there is coverage under this policy must be filed in the courts of the United States of America (including its territories and possessions), Puerto Rico or Canada.
- The insured must fully maintain any coverage required by law, regulation or other governmental authority during the policy period, except for reduction of the aggregate limits due to payments of claims, judgments or settlements.

Failure to maintain such coverage required by law, regulation or other governmental authority will not invalidate this insurance. However, this insurance will apply as if the required coverage by law, regulation or other governmental authority was in full effect.

For purposes of this coverage only, the following is added to Paragraph 4.b.(1)(a) under Other Insurance of SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS within the COMMERCIAL GENERAL LIABILITY COVER-AGE FORM: If the insured's liability to pay damages is determined in a "suit" brought outside the United States of America (including its territories and possessions), Puerto Rico or Canada; or

That is coverage required by law, regulation or other governmental authority in a part of the "coverage territory" that is outside the United States of America (including its territories and possessions), Puerto Rico or Canada.

For purposes of this coverage only, Paragraph 4. of SECTION V — DEFINITIONS within the COMMERCIAL GENERAL LIABILITY COVER-AGE FORM is replaced by:

 "Coverage territory" means anywhere in the world with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America.

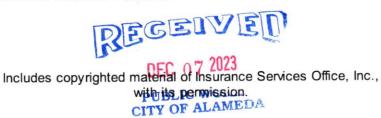
Q. BODILY INJURY REDEFINITION

Paragraph 3. of SECTION V. — DEFINITIONS within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM is replaced by:

- "Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish, injury or illness or emotional distress and/or death resulting from any of these at any time.
- R. INSURED CONTRACT LEASE OF PREMISES
 - Paragraph 9.a. of SECTION V DEFINITIONS within the COMMERCIAL GENERAL LIABILITY COVERAGE FORM is replaced by:
 - 9. "Insured contract" means:
 - a. a contract for lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "property damage" by fire; smoke from a "hostile fire", explosion; lightning; smoke resulting from such explosion or lightning; collision by "mobile equipment" or leakage from fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract".

S. LIBERALIZATION

If we revise this endorsement to provide more coverage without additional premium charge, your policy will automatically provide the coverage as of the day the revision is effective in your state.



z

T. GOOD SAMARITAN SERVICES

 Under SECTION II — WHO IS AN INSURED, paragraph 2.d., the following is added:

This exclusion does not apply to your employees or volunteer workers, other than an employed or volunteer physician, rendering "Good Samaritan services".

 The following definition is added to SECTION V — DEFINITIONS:

"Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.



Includes copyrighted materiaCoWASBrance Services Office, Inc., CIWITANS permission.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS BLANKET ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. WHO IS AN INSURED (Section II) is amended to include as an insured any person or organization (called additional insured) whom you are required to add as an additional insured on this policy under a written contract or written agreement; but the written contract or written agreement must be:
 - 1. Currently in effect or becoming effective during the term of this policy; and
 - 2. Executed prior to the "bodily injury", "property damage" or "personal and advertising injury".
- **B.** The insurance provided to the additional insured is limited as follows:
 - That person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part, by:
 - a. Your acts or omissions; or
 - b. The acts or omissions of those acting on your behalf.

in the performance of your operations for the additional insured.

- 2. The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
- 3. The coverage provided to the additional insured by this endorsement and paragraph f. of the definition of "insured contract" under DEFINITIONS (SECTION V) do not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.

4. The insurance provided to the additional insured does not apply to:

"Bodily injury", "property damage", or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:

- a. The preparing, approving, or failure to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
- **b.** Supervisory, inspection, architectural or engineering activities.
- 5. We have no duty to defend or indemnify an additional insured under this endorsement:
 - a. For any liability due to negligence attributable to any person or entity other than you or those acting on your behalf in the performance of your operations for the additional insured.
 - b. For any loss which occurs prior to our named insured commencing operations at the location of the loss.
 - c. Until we receive written notice of a claim or "suit" from the additional insured as required in the Duties In The Event of Occurrence, Offense Claim or Suit Condition.
- C. As respects the coverage provided under this endorsement, the COMMERCIAL GENERAL LIABILITY CONDITIONS (SECTION IV) are amended as follows:
 - 1. The following is added to the Duties In The Event of Occurrence, Offense, Claim or Suit Condition:

An additional insured under this endorsement will as soon as practicable:

PUBLIC WORKS Includes copyrighted material of Insurance Services Office Inc., with its permission. Copyright, Insurance Services Office, Inc. 2002

- Give written notice of an occurrence or an offense to us which may result in a claim or "suit" under this insurance;
- (2) Agree to trigger or activate any other insurance which the additional insured has, which is primary, for a loss we cover under this Coverage Part by tendering the defense to the insurers of all such other insurance.
- 2. As respects the coverage provided under this endorsement, Paragraph 4.b. of the Other Insurance Condition is deleted and replaced by the following:

4. Other Insurance

b. Excess Insurance

This insurance is excess over any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless the written contract or agreement described in **A**. above specifically requires that this insurance be provided on either a primary basis or a primary and noncontributory basis.



PUBLIC WORKS CITY OF ALAMEDA

Includes copyrighted material of Insurance Services Office Inc., with its permission. Copyright, Insurance Services Office, Inc. 2002

Page 2 of 2

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Blanket Waiver of Subrogation as required by written contract.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 12/4/2023 Insured CSG Consultants, Inc. Policy No. 152000753

Endorsement No. Premium \$

REGESTION Insurance Company DEC 07 2023

WC 00 03 13 (Ed. 4-84)

PUBLIC WORKAGHT 1983 National Council on Compensation Insurance. CITY OF ALAMEDA

Countersigned by

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT ("Agreement") is entered into this 13thday of July, 2022 ("Effective Date"), by and between the CITY OF ALAMEDA, a municipal corporation ("the City"), and CSG CONSULTANTS, INC, a California corporation, whose address is 550 PILGRAM DRIVE, FOSTER CITY, CALIFORNIA 94404 ("Provider"), in reference to the following facts and circumstances:

RECITALS

A. The City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.

B. The City is in need of the following services: Construction Management & Inspection Services for Various Capital Improvement Projects including Federally Funded Projects. City staff issued an RFQ on April 21, 2022 and after a submittal period of thirty two days, the City received nine timely submitted proposals. Staff reviewed the proposals, interviewed qualified firms and selected the service provider that best meets the City's needs

C. Provider is specially trained, experienced and competent to perform the special services which will be required by this Agreement.

D. The City and Provider desire to enter into an agreement for Construction Management & Inspection Services for Various Capital Improvement Projects including Federally Funded Projects, upon the terms and conditions herein.

AGREEMENT

NOW, THEREFORE, in consideration of the forgoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Provider agree as follows:

1. <u>TERM</u>:

The term of this Agreement shall commence on the <u>13th</u> day of July 2022, and shall terminate on the <u>12th</u> day of <u>July</u> 2027, unless terminated earlier as set forth herein.

2. <u>SERVICES TO BE PERFORMED</u>:

Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit C as requested. Provider acknowledges that the work plan included in Exhibit C is tentative and does not commit the City to request Provider to perform all tasks included therein.

3. <u>COMPENSATION TO PROVIDER</u>:

a. By the 7th day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be

according to the fee schedule as set forth in <u>Exhibit C</u> and incorporated herein by this reference. Extra work must be approved in writing by the City Manager or their designee prior to performance and shall be paid on a Time and Material basis as set forth in <u>Exhibit C</u>.

b. The total five-year compensation for this Agreement shall not exceed \$750,000.

4. <u>TIME IS OF THE ESSENCE</u>:

Provider and the City agree that time is of the essence regarding the performance of this Agreement.

5. STANDARD OF CARE:

Provider agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

6. <u>INDEPENDENT PARTIES</u>:

Provider hereby declares that Provider is engaged as an independent business and Provider agrees to perform the services as an independent contractor. The manner and means of conducting the services and tasks are under the control of Provider except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Provider's services. None of the benefits provided by the City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave, are available from the City to Provider, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any compensation due to Provider. Payments of the above items, if required, are the responsibility of Provider.

7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):

Provider assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Provider shall indemnify, defend, and hold the City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Provider.

8. <u>NON-DISCRIMINATION</u>:

Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Provider and its employees, contractors, and agents shall not harass or discriminate against any job applicant, City employee, or any other person on the basis of any kind of any statutorily (federal, state or local) protected class, including but not limited to: race, religious creed, color, national origin, ancestry, disability (both mental and physical) including HIV and AIDS, medical condition (e.g. cancer), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, pregnancy, political affiliation,

military and veteran status or legitimate union activities. Provider agrees that any violation of this provision shall constitute a material breach of this Agreement.

9. HOLD HARMLESS:

a. To the fullest extent permitted by law, Provider shall indemnify, defend (with counsel acceptable to the City) and hold harmless the City, its City Council, boards, commissions, officials, employees, agents and volunteers ("Indemnitees") from and against any and all loss, damages, liability, obligations, claims, suits, judgments, costs and expenses whatsoever, including reasonable attorney's fees and costs of litigation ("Claims"), arising from or in any manner connected to Provider's performance of its obligations under this Agreement or out of the operations conducted by Provider even if the City is found to have been negligent. If the Claims filed against Indemnitees allege negligence, recklessness or willful misconduct on the part of Provider, Provider shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence, recklessness or willful misconduct is not found on the part of Provider. Provider shall not have any obligations to indemnify Indemnitees if the loss or damage is found to have resulted solely from the negligence or the willful misconduct of the City. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

b. As to Claims for professional liability only, Provider's obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8. The services performed by Provided as described in Exhibit B are considered to be design professional services covered by Civil Code Section 2782.8.

c. Provider's obligation to indemnify, defend and hold harmless Indemnities shall expressly survive the expiration or early termination of this Agreement.

10. INSURANCE:

a. On or before the commencement of the terms of this Agreement, Provider shall furnish the City's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with Sections 10.b. (1) through (5) Such certificates, which do not limit Provider's indemnification, shall also contain substantially the following statement:

"Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda. Attention: Risk Manager."

Provider shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company licensed to offer insurance business in the State of California with a current A.M. Best's rating of no less than A:VII or Standard & Poor's Rating (if rated) of at least BBB unless otherwise acceptable to the City. Provider shall deliver updated insurance certificates to the City at the address described in Section 17.f. prior to the expiration of the existing insurance certificate for the duration of the term of Agreement. Endorsements naming the City, its City Council, boards, commissions,

officials, employees, agents, and volunteers as additional insured shall be submitted with the insurance certificates.

C.K Provider Initials

b. <u>COVERAGE REQUIREMENTS</u>:

Provider shall maintain insurance coverage and limits at least as broad as:

Workers' Compensation:

Statutory coverage as required by the State of California.

(2) <u>Liability</u>:

Commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence \$2,000,000 aggregate - all other
Property Damage:	\$1,000,000 each occurrence \$2,000,000 aggregate

If submitted, combined single limit policy with per occurrence limits in the amounts of \$2,000,000 and aggregate limits in the amounts of \$4,000,000 will be considered equivalent to the required minimum limits shown above. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

(3) <u>Automotive:</u>

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury:	\$1,000,000 each occurrence
Property Damage:	\$1,000,000 each occurrence
or	
Combined Single Limit:	\$2,000,000 each occurrence

Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

(4) <u>Professional Liability:</u>

Professional liability insurance which includes coverage appropriate for the professional acts, errors and omissions of Provider's profession and work hereunder, including, but not limited to, technology professional liability errors and omissions if the services being provided are technology-based, in the following minimum limits:

\$2,000,000 each occurrence

Technology professional liability errors and omissions shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City in the care, custody, or control of Provider. If not covered under Provider's liability policy, such "property" coverage of the City may be endorsed onto Provider's Cyber Liability Policy as covered property as follows: cyber liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City that will be in the care, custody, or control of Provider.

(5) Cyber Liability:

Coverage shall be sufficiently broad to respond to the duties and obligations as are undertaken by Provider in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations with the following minimum limits:

\$2,000,000 per occurrence or claim.

As to commercial general liability and automobile liability insurance, such insurance will provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom claim is made or suit is brought. Such insurance is not additional to or contributing with any other insurance carried by or for the benefit of the City.

c. <u>SUBROGATION WAIVER</u>:

Provider hereby agrees to waive rights of subrogation that any insurer of Provider may acquire from Provider by virtue of the payment of any loss. Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Provider, its employees, agents and subcontractors.

d. FAILURE TO SECURE:

If Provider at any time during the term hereof should fail to secure or maintain the foregoing insurance, the City shall be permitted to obtain such insurance in Provider's name or as an agent of Provider and shall be compensated by Provider for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

e. <u>ADDITIONAL INSUREDS</u>:

The City, its City Council, boards, commissions, officials, employees, agents, and volunteers shall be named as additional insured(s) under all insurance coverages, except workers' compensation and professional liability insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy. Additional Insured coverage under Provider's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance. Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured(s).

E. <u>SUFFICIENCY OF INSURANCE</u>:

The insurance limits required by the City are not represented as being sufficient to protect Provider. Provider is advised to consult Provider's insurance broker to determine adequate coverage for Provider. The coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of the coverage carried by or available to Provider; whichever is greater.

11. CONFLICT OF INTEREST:

Provider warrants that it is not a conflict of interest for Provider to perform the services required by this Agreement. Provider may be required to fill out a conflict of interest form if the services provided under this Agreement require Provider to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. PROHIBITION AGAINST TRANSFERS:

a. Provider shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Provider shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager or their designee may consent or reject such request in their sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Provider to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock, membership interest, partnership interest, or the equivalent, which shall result in changing the control of Provider, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of Provider.

13. <u>APPROVAL OF SUB-PROVIDERS</u>:

a. Only those persons and/or businesses whose names and resumés are attached to this Agreement shall be used in the performance of this Agreement. However, if after the start of this Agreement, Provider wishes to use sub-providers, at no additional costs to the City, then Provider shall submit a written request for consent to add sub-providers including the names of the sub-providers and the reasons for the request to the City Manager at least five (5) days in advance. The City Manager may consent or reject such requests in their sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance (as applicable) in reasonable conformity to the insurance carried by Provider.

c. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement. Provider shall include the following language in their agreement with any sub-provider: "Sub-providers hired by Provider agree to be bound to Provider and the City in the same manner and to the same extent as Provider is bound to the City."

d. The requirements in this Section 13 shall <u>not</u> apply to persons who are merely providing materials, supplies, data or information that Provider then analyzes and incorporates into its work product.

14. <u>PERMITS AND LICENSES</u>:

Provider, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City business license that may be required in connection with the performance of the services and tasks hereunder.

15. <u>REPORTS</u>:

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Provider pursuant to or in connection with this Agreement shall be the exclusive property of the City. City shall bear the sole risk of using these documents on other than the intended project.

b. No report, information or other data given to or prepared or assembled by Provider pursuant to this Agreement shall be made available to any individual or organization by Provider without prior approval of the City Manager or their designee.

c. Provider shall, at such time and in such form as City Manager or their designee may require, furnish reports concerning the status of services and tasks required under this Agreement.

16. <u>RECORDS</u>:

a. Provider shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of Provider's performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by the City that relate to the performance of the services and tasks under this Agreement (collectively the "**Records**").

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Provider shall provide free access to the Records to the representatives of the City or its designees during regular business hours upon reasonable prior notice. The City has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all proceedings and activities related to this Agreement. Such Records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained by Provider for a period of three (3) years after receipt of final payment.

c. If supplemental examination or audit of the Records is necessary due to concerns raised by the City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of this Agreement or failure to act in good faith, then Provider shall reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

17. <u>NOTICES</u>:

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Provider to the City shall be addressed to the City at:

City of Alameda Public Works Department 950 West Mall Square, Room 110 Alameda, CA 94501 ATTENTION: Tawfic Halaby, Supervising Civil Engineer Ph: (510) 747-7937 / Email: <u>thalaby@alamedaca.gov</u>

e. All notices, demands, requests, or approvals from the City to Provider shall be addressed to Provider at:

CSG Consulting, Inc. 550 Pilgram Drive Foster City, CA 94404 ATTENTION: Cyrus Kianpour, President Ph: (650) 522-2500 Email: contracts@csgengr.com

Cc: CSG Consultants, Inc., Nourdin Khayata, 550 Pilgrim drive, Foster City, CA 94404

f. All updated insurance certificates from Provider to the City shall be addressed to the City at:

City of Alameda 950 West Mall Square, Room 110 Alameda, CA 94501 ATTENTION: Jeanette Navarro, Engineering Office Assistant Ph: (510) 747-7932 / Email: jnavarro@alamedaca.gov

18. <u>SAFETY</u>:

a. Provider will be solely and completely responsible for conditions of all vehicles owned or operated by Provider, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Provider will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. Provider's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. Provider will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. Provider will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Provider's employee(s) involved in the incident; (iii) name and address of Provider's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

19. TERMINATION:

a. In the event Provider fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Provider shall be deemed in default in the performance of this Agreement. If such default is not cured within two (2) business days after receipt by Provider from the City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, the City may thereafter immediately terminate the Agreement forthwith by giving to Provider written notice thereof.

b. The foregoing notwithstanding, the City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Provider as provided herein. Provider may terminate the Agreement for cause by giving thirty (30) days written notice to City as provided herein. c. Upon termination of this Agreement either for cause or for convenience, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination. The obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

20. <u>ATTORNEYS' FEES</u>:

In the event of the bringing of any action or suit by a party hereto against the other party by reason of any breach of any covenants, conditions, obligation or provision arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses of the action or suit, including reasonable attorney's fees, experts' fees, all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For the purposes of this Agreement, reasonable fees of attorneys of the Alameda City Attorney's office shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the services were rendered who practice in Alameda City Attorney's Office.

21. <u>HEALTH AND SAFETY REQUIREMENTS.</u>

Provider acknowledges that the City shall have the right to impose, at the City's sole discretion, requirements that it deems are necessary to protect the health and safety of the City employees, residents, and visitors. Provider agrees to comply with all such requirements, including, but not limited to, mandatory vaccinations, the use of personal protective equipment (e.g. masks), physical distancing, and health screenings. Provider also agrees to make available to the City, at the City's request, records to demonstrate Provider's compliance with this Section. [See Certification of Compliance attached.]

22. <u>COMPLIANCE WITH ALL APPLICABLE LAWS</u>:

During the term of this Agreement, Provider shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the manner in which the services or tasks are to be performed by Provider, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Provider shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by the City.

23. <u>CONFLICT OF LAW</u>:

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

24. WAIVER:

A waiver by the City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

25. <u>INTEGRATED CONTRACT</u>:

Subject to the language of Section 30, the Recitals and exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both the City and Provider.

26. <u>CAPTIONS</u>:

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

27. <u>COUNTERPARTS</u>:

This Agreement may be executed in any number of counterparts (including by fax, PDF, DocuSign, or other electronic means), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

28. SIGNATORY:

By signing this Agreement, signatory warrants and represents that they executed this Agreement in their authorized capacity and that by their signature on this Agreement, they or the entity upon behalf of which they acted, executed this Agreement.

29. <u>CONTROLLING AGREEMENT</u>:

In the event of a conflict between the terms and conditions of this Agreement (as amended, supplemented, restated or otherwise modified from time to time) and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

30. NONDISCRIMINATION - FEDERAL REQUIREMENTS:

a. Provider certifies and agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, sex, age, or condition or physical or mental handicap (as defined in 41 C.F.R. Section 60-741, et seq.), in accordance with requirement of state or federal law. Provider shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap in accordance with requirements of state and federal law. Such shall include, but not be limited to, the following:

A. Employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation.

B. Selection for training, including interns and apprentices.

(i) Provider agrees to post in conspicuous places in each of Provider's facilities providing services hereunder, available and open to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(ii) Provider shall, in all solicitations or advertisements for employees placed by or on behalf of Provider, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirements of state and federal law.

(iii) Provider shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of Provider's commitments under this paragraph.

(iv) Provider certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirement of state and federal law.

(v) In accordance with applicable state and federal law, Provider shall allow duly authorized county, state and federal representatives access to its employment records during regular business hours in order to verify compliance with the anti-discrimination provisions of this paragraph. Provider shall provide such other information and records as such representatives may require in order to verify compliance with the anti-discrimination provisions of this paragraph.

b. If the City finds that any of the provisions of this paragraph have been violated, the same shall constitute a material breach of Agreement upon which the City may determine to cancel, terminate, or suspend this Agreement. The City reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated. In addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Provider has violated state and federal antidiscrimination laws shall constitute a finding by the City that Provider has violated the antidiscrimination provisions of Agreement.

c. The parties agree that in the event Provider violates any of the anti-discrimination provisions of this paragraph, the City shall be entitled, at its option, to the sum of \$500.00 pursuant to California Civil Code Section 1671 as liquidated damages in lieu of canceling, terminating, or suspending this Agreement. d. Provider hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), all requirements imposed by the applicable regulations, and all guidelines and interpretations issued pursuant thereto, to the end that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of Provider receiving Federal Financial Assistance. In addition, Provider shall comply with the Uniform Federal Accessibility Standards, and Provider, Engineer, or Architect responsible for any design, construction or alteration shall certify compliance with those Standards.

e. Provider's attention is directed to laws, including but not limited to:

A. CIVIL RIGHTS/EQUAL OPPORTUNITY

(i) Civil Rights Act of 1964. Under Title VII of the Civil Rights Act of 1964, no person shall, on the grounds of race, sex, religion, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(ii) Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

(iii) Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.

B. PROGRAM ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES

This Agreement is subject to laws and regulations concerning the rights of otherwise qualified individuals with handicaps for equal participation in, and benefit from federally assisted programs and activities, including but not limited to:

(i) Americans with Disabilities Act of 1990 (ADA) (28 C.F.R. 35). Title II, Subpart A of the Americans with Disabilities Act of 1990 applies to all publicly funded activities and programs. Provider shall also comply with the public accommodations requirements of Title III of the ADA, as applicable.

(ii) Nondiscrimination on the Basis of Handicap (24 C.F.R. 8). These regulations, which implement Section 504 of the Rehabilitation Act of 1973, as amended, and as cited in Section 109 of the Housing and Community Development Act, apply to all federally assisted activities and programs and are implemented through the regulations at 24 C.F.R. 8.

(iii) Architectural Barrier Act of 1968. Any building or facility, excluding privately owned residential structures, designed, constructed, or altered with federal

funds, shall comply with the Uniform Federal Accessibility Standards, 1984 (41 C.F.R. 3) and the Handicapped Accessibility Requirements of the State of California Title 24. The Consultant, Engineer or Architect responsible for such design, construction or alteration shall certify compliance with the above standards.

(iv) In resolving any conflict between the accessibility standards cited in paragraphs (i), (ii) and (iii) above, the more stringent standard shall apply.

31. NONDISCRIMINATION - HUD REQUIREMENTS:

a. Provider certifies and agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, sex, age, or condition or physical or mental handicap (as defined in 41 C.F.R. Section 60-741, et seq.), in accordance with requirement of state or federal law. Provider shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap in accordance with requirements of state and federal law. Such shall include, but not be limited to, the following:

A. Employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation.

B. Selection for training, including interns and apprentices.

(i) Provider agrees to post in conspicuous places in each of Provider's facilities providing services hereunder, available and open to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(ii) Provider shall, in all solicitations or advertisements for employees placed by or on behalf of Provider, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirements of state and federal law.

(iii) Provider shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of Provider's commitments under this paragraph.

(iv) Provider certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirement of state and federal law.

(v) In accordance with applicable state and federal law, Provider shall allow duly authorized county, state and federal representatives access to its employment records during regular business hours in order to verify compliance with the anti-discrimination provisions of this paragraph. Provider shall provide such other information and records as such representatives may require in order to verify compliance with the anti-discrimination provisions of this paragraph. b. If the City finds that any of the provisions of this paragraph have been violated, the same shall constitute a material breach of Agreement upon which the City may determine to cancel, terminate, or suspend this Agreement. The City reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated. In addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Provider has violated state and federal anti-discrimination laws shall constitute a finding by the City that Provider has violated the anti-discrimination provisions of this Agreement.

c. The parties agree that in the event Provider violates any of the anti-discrimination provisions of this paragraph, the City shall be entitled, at its option, to the sum of \$500.00 pursuant to California Civil Code Section 1671 as liquidated damages in lieu of canceling, terminating, or suspending this Agreement.

d. Provider hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), all requirements imposed by the applicable regulations, and all guidelines and interpretations issued pursuant thereto, to the end that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of Provider receiving Federal Financial Assistance. In addition, Provider shall comply with the Uniform Federal Accessibility Standards, and Provider, Engineer, or Architect responsible for any design, construction or alteration shall certify compliance with those Standards.

e. Provider's attention is directed to laws, including but not limited to:

A. CIVIL RIGHTS/EQUAL OPPORTUNITY

(i) Civil Rights Act of 1964. Under Title VII of the Civil Rights Act of 1964, no person shall, on the grounds of race, sex, religion, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(ii) Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

(iii) Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.

B. EMPLOYMENT AND CONTRACTING OPPORTUNITIES

(i) <u>Section 3</u>. The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development Department and is subject to the requirements of Section 3 of

the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

(ii) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of the Housing and Urban Development set forth in 24 Part C.F.R. 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

(iii) Provider will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

(iv) Provider will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 C.F.R. Part 135. Provider will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

(v) Compliance with the provisions of Section 3, the regulations set forth in 24 C.F.R. Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement, is a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 C.F.R. Part 135.

C. PROGRAM ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES

This Agreement is subject to laws and regulations concerning the rights of otherwise qualified individuals with handicaps for equal participation in, and benefit from federally assisted programs and activities including but not limited to:

(i) Americans with Disabilities Act of 1990 (ADA) (28 C.F.R. 35). Title II, Subpart A of the Americans with Disabilities Act of 1990 applies to all publicly funded activities and programs. Provider shall also comply with the public accommodations requirements of Title III of the ADA, as applicable. (ii) Nondiscrimination on the Basis of Handicap (24 C.F.R. 8). These regulations, which implement Section 504 of the Rehabilitation Act of 1973, as amended, and as cited in Section 109 of the Housing and Community Development Act, apply to all federally assisted activities and programs and are implemented through the regulations at 24 C.F.R. 8.

(iii) Architectural Barrier Act of 1968. Any building or facility, excluding privately owned residential structures, designed, constructed, or altered with federal funds, shall comply with the Uniform Federal Accessibility Standards, 1984 (41 C.F.R. 3) and the Handicapped Accessibility Requirements of the State of California Title 24. The Consultant, Engineer or Architect responsible for such design, construction or alteration shall certify compliance with the above standards.

(iv) In resolving any conflict between the accessibility standards cited in paragraphs (i), (ii) and (iii) above, the more stringent standard shall apply.

32. <u>RESTRICTIONS ON LOBBYING – FEDERAL REQUIREMENT:</u>

This Agreement is subject to 24 C.F.R. 87 which prohibits the payment of Federal funds to any person for influencing or attempting to influence, any public officer or employee in connection with the award, making, entering into, extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or agreement.

33. ADDITIONAL REQUIREMENTS

The attached provisions of Exhibits A and B are specifically incorporated herein by reference.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

CSG CONSULTANTS, INC. A California corporation

Cyrus Kainpour

President 1

Nourdin Khayata Seretary

CITY OF ALAMEDA a municipal corporation

DocuSigned by:

Dirk Brazil

Dirk Brazil Interim City Manager

RECOMMENDED FOR APPROVAL

7/13/2022

— DocuSigned by:

Erin Smith

Public Works Director

APPROVED AS TO FORM: City Attorney

-DocuSigned by:

Ler Aslanian

Assistant City Attorney

Certification of Compliance With the City of Alameda's Vaccination Requirement

The City of Alameda ("City") requires all individuals who perform work for the City to be fully vaccinated¹ against COVID-19. All service providers and contractors for the City must sign the following statement certifying compliance with this requirement.

By signing below, I certify that all of our personnel who are performing work for the City are fully vaccinated against COVID-19. I also acknowledge that the City reserves the right to review any relevant records to demonstrate our compliance with this requirement. I declare under penalty of perjury that the foregoing is true and correct.

CSG Consultants, Inc.

Date: June 17th, 2022

By: Cyrus Kainpour Its President

¹ For the purposes of this Certification of Compliance, an individual is considered to be fully vaccinated if two weeks have passed since their second dose in a 2-dose series (such as the Pfizer or Moderna vaccines) or if two weeks have passed since receiving their single-dose vaccine (such as Johnson & Johnson's Janssen vaccine).

Exhibit A

FHWA 1273 Required Contract Provisions Federal-Aid Construction Contracts

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

 Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid designbuild contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

 Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

 The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-thejob training."

 EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means. 4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

 The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

 The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

 The number and work hours of minority and nonminority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on <u>Form FHWA-1391</u>. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-ofway of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

 (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federallyassisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the DavisBacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the appendices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency...

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30. d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

 Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

 Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated

damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

 The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

 the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

 the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and (4) the prime contractor remains ultimately responsible for

the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

 The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

 The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

T h is provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

 In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect properly in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

T h is provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federalaid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

 That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

 That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification - First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<u>https://www.epls.gov/</u>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

....

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

 Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

 By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause tilled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<u>https://www.epls.gov/</u>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

....

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion–Lower Tier Participants:

 The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

....

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

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

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

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

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

 During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

 To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

 The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

Exhibit B

Article XVI Non-Discrimination Clause and Statement of Compliance

Article XXXII Title VI Assurances

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing 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 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 federallyassisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

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

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

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

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify at date of proposal opening that the DBE firm is certified as a DBE by using the California Unified Certification Program (CUCP) database and possesses the most specific available North American Industry Classification System (NAICS) codes or work code applicable to the type of work the firm will perform on the contract. Additionally, the CONSULTANT is responsible to document the verification record by printing out the CUCP data for each DBE firm. A

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 PROMPT PAYMENT FROM THE LOCAL AGENCY TO CONSULTANT

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

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

ARTICLE XXXII TITLE VI ASSURANCES

APPENDICES A - E of the TITLE VI ASSURANCES

The <u>U.S. Department of Transportation Order No.1050.2A</u> requires all federal-aid Department of Transportation contracts between an agency and a consultant to contain Appendices A and E of the Title VI Assurances. Include Appendices B, C, and D if appliable as shown below. In addition, the consultant must include the Title VI Assurances Appendices A and E, and if applicable Appendices B, C, and D in all subcontracts to perform work under the contract.

The clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a LOCAL AGENCY.

The clauses set forth in Appendix C and Appendix D of this Assurance shall be included as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the LOCAL AGENCY with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

APPENDIX A

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

- a. <u>Compliance with Regulations</u>: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. <u>Nondiscrimination</u>: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. <u>Solicitations for Sub-agreements, Including Procurements of Materials and Equipment</u>: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.
- e. <u>Sanctions for Noncompliance</u>: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - ii. cancellation, termination or suspension of the Agreement, in whole or in part.
- f. <u>Incorporation of Provisions</u>: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns. that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the abovementioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].* (*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the recipient pursuant to the provisions of Assurance 7(a):

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does

hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

- 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations(as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the recipient pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

APPENDIX E

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following nondiscrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Exhibit C

Proposal

Exhibit C

STATEMENT OF QUALIFICATIONS TO THE

City of Alameda

Proposal to Provide Construction Management & Inspection Services for Various Capital Improvement Projects Including Federally Funded Projects

May 23, 2022





www.csgengr.com



Exhibit C

May 17, 2022

TO: Prospective Bidders

Request for Qualifications (RFQ) for On-Call Construction Management & Inspection Services for Various Capital Improvement Projects Including Federally Funded Projects

ADDENDUM NO. 1

Addendum No. 1 is hereby issued to provide responses to questions submitted by prospective bidders. Please sign this Addendum and attach it to your submittal.

SECTION 1 QUESTIONS AND ANSWERS

Following are the questions and answers from the Mandatory Pre-Bid Meeting, with new information highlighted in yellow.

Pre-Bid Question 1 Agenda Item III On the percent, should we just put "Not Applicable" or something like that?

Pre-Bid Answer 1 Yes, you can put "Not Applicable" or "0.0" at this time. Please insert 0.0%.

Pre-Bid Question 2 Agenda Item III Is it OK to add a DBE Subconsultant at the time of the particular cost proposal or do they have to be included at this point?

Pre-Bid Answer 2 We do not have an answer and will ask Caltrans Local Assistance for guidance. If you're able to, to cover your basis, include your potential DBE's with your qualifications. This would be a safe move for everybody. City staff will follow up with an answer for that specific question. DBE Sub-consultants that are key personnel on your team should be included in the statement of qualifications.

Pre-Bid Question 3 Agenda Item VII Would you have a need for materials testing and survey? **Pre-Bid Answer 3** Potentially yes. Material testing varies from agency to agency. Materials testing could be included in the scope of services for construction management and inspection services. If your firm provides materials testing, we encourage you to be contacting some of the primes who would be the subs to provide those kinds of services. Materials testing and survey may be included in the Scope of Work for any individual project solicitation.

Pre-Bid Question 4 Agenda Item XI So you're looking to issue three 1.5 million contracts for 5year term?

Pre-Bid Answer 4 Yes. From reading the federal language, they look at it a bit differently. The instruction is to state the sum total of all the contracts. That's why it's written as 4.5 million. In a roundabout way, that's the intention, about a million and a half per contract. Following is an excerpt from Chapter 10 of the Local Assistance Procedures Manual:

"On-call contracts must specify a reasonable maximum length of contract, not to exceed 5 years, and a maximum total contract dollar amount (23 CFR 172). The maximum dollar



amount for all contracts awarded under the solicitation must be stated in the solicitation. The maximum dollar amount is the aggregate of the on-call contracts anticipated to be awarded. For example, if the solicitation lists that up to 5 contracts may be awarded, the aggregate amount of these 5 contracts is the maximum contract dollar amount. Setting maximum amount on each on-call contract under a multiple on-call solicitation does not meet the intent of 23 CFR172. H"

Pre-Bid Question 5 Agenda Item XI Confirming that on form [FHWA] 1273, we don't need to take any action with that, it'll just become a part of the contract. Is that correct? **Pre-Bid Answer 5** Yes, that's correct.

Pre-Bid Question 6 Agenda Item XI I'm hoping for clarification. I noticed the City of Alameda has a COVID-19 vaccination requirement. On page 59 of the instructions, Certificate of Compliance with the City of Alameda's Vaccination Requirement, it says "all individuals." Just curious, would that also apply to any staff working in the office doing paperwork or is the intent of that just for the field inspectors and resident engineers?

Pre-Bid Answer 6 City staff will follow up to see where we are today with COVID-19 and let everyone know. Thinks that was inserted as a matter of course into the standard form contract due to COVID-19. Vaccination requirements are not enforced for staff working at your office. Vaccination requirements are enforced for field inspectors and resident engineers.

Pre-Bid Question 7 Agenda Item XI Will an attendance list be available for interest in partnering with some of those firms?

Pre-Bid Answer 7 Yes, it'll be available. City staff will distribute to everyone. Subsequent to the mandatory Pre-Bid Meeting, the attendance list was distributed to all attendees.

Pre-Bid Question 8 Agenda Item XI A question on the federal forms. If we include DBE firms on our team, which forms do we need to submit for them? Assuming the 15-H, 10-I and the 10-K, maybe?

Pre-Bid Answer 8 City staff will find out for sure. Thinks these forms are correct. There are some forms that are not included in this list that will be solicited on a case-by-case / project-by-project basis. If you have subconsultants and want to know which of these forms you will have to submit, we will get back to you with a clear answer. Yes, with your statement of qualifications please include Exhibit 15-H, Exhibit 10-K for each DBE, and Exhibit 10-O1.

Pre-Bid Question 9 Agenda Item XI How do you envision the three major projects being distributed across the three teams? The Central Ave, Pavement Rehab, and Clement Ave Complete Streets work being effectively allocated to one team each? Or are there opportunities of crossover? Any thoughts of that at this point?

Pre-Bid Answer 9 We will do individual solicitations, one at a time, independent of anything else that is going on.

Following are the questions that were submitted via email, with answers

Email Question 1 Regarding references, do the 4 references required for the proposal all need to come from the prime or can they be for our subconsultants too? For example, 2 come from the prime and 1 each from each of our subs.

Email Answer 1 Please submit four references for your firm only. We are not asking for references for proposed sub-consultants.

Exhibit C



Email Question 2 Can the City please confirm that the interview will take place virtually (Zoom or MS Teams) on June 9th, 2022? **Email Answer 2** Yes, the interview will take place virtually.

Email Question 3 DBE Forms – Since the RFP has a 0% DBE goal, please confirm per the pre-proposal meeting that the forms are still to completed showing the DBE % commitment? **Email Answer 3** Yes, please submit DBE forms for the record, with 0.0% DBE requirement for the on-call solicitation.

Email Question 4 Will the City allow our fee schedule and Exhibit 10-K be submitted under a separate package? We would like to keep this information confidential and not be made available as public information with the rest of our proposal.

Email Answer 4 Exhibit 10-K must be submitted with the statement of qualifications rather than as a separate package. Fee schedules are not required at this time.

Email Question 5 Can we include 11x17 foldout in our submittal? This would be for our proposed org chart.

Email Answer 5 Yes. If you elect to include an 11 x 17 for your firm's org chart, since this is a graphic it will count as one (1) page in the total page count.

Email Question 6 Is Exhibit 10-O1 Consultant Proposal DBE Commitment required, since there is no DBE goal for this contract?

Email Answer 6 Yes, Exhibit 10-01 Consultant Proposal DBE Commitment is required.

Email Question 7 Have the DBE goals been determined for the three projects listed on page 3 of the RFQ?

Email Answer 7 At this time, no DBE is available for future projects. DBE goals will be calculated for individual projects (utilizing LAPM Exhibit 9-D) and will be made available when the City requests proposals from the on-call consultants, for the individual projects.

Email Question 8 The last paragraph on page 6 of the RFQ mentions bonus points. Are bonus points possible? If so, how are bonus points earned?

Email Answer 8 There are no bonus points for this solicitation. The aforementioned phrase found on page 6, "excluding bonus points," is removed from this solicitation altogether, and the resulting corrected statement is, "The submittals will be scored on a zero to 100-point scale."

Email Question 9 How will the City issue an addendum (i.e., answers to questions addressed during the pre-bid meeting)? Via website or email to those who participated in the pre-bid call? **Email Answer 9** The City will issue an addendum via the City website and via email to pre-bid attendees.

Email Question 10 May we include an 11 x 17 page in our response to Section 2 – Relevant Experience of Key Personnel and the Firm? If so, would that 11 x 17 page count as one or two pages toward the 10-page limit?

Email Answer 10 Yes. If you elect to include an 11 x 17 for Section 2 – Relevant Experience of Key Personnel and the Firm, since this is text it will count as two (2) pages in the page count.

Email Question 11 Do the client references (Attachment C) count towards the 10-page limit in Section 2 of our response?

Email Answer 11 No, the client references do not count towards the 10-page limit.

Exhibit C



LANGUAGE SECTION 2 FEDERAL REQUIRED TO BE PHYSICALLY INCORPORATED INTO THE CITY'S SERVICE PROVIDER AGREEMENT

Chapter 10 of the Local Assistance Procedures Manual (LAPM) states the following Articles, included in LAPM Exhibit 10-R: A&E Bollerplate Agreement Language, must be included in consultant agreements: Article XVI Non-Discrimination Clause and Statement of Compliance, and Article XXXII Title VI Assurances. The City will physically incorporate the language, attached to this Addendum, into the Service Provider Agreement.

APPROVED: Robert Vance Robert Vance, P.E., City Engineer

5/18/2022 Date

5/23/22

Date

Receipt is hereby acknowledged of Addendum No. 1, Request for Qualifications for On-Call Construction Management & Inspection Services for Various Capital Improvement Projects, Including Federally Funded Projects.

CSG Consultants, Inc.

Company Name / Contractor

Nourdin Khayata, Vice President

NOTE: THIS COMPLETE ADDENDUM, SIGNED AND DATED MUST BE ATTACHED TO YOUR RESPONSE TO THIS RFQ (AND WILL NOT COUNT TOWARDS THE PAGE LIMIT).

g:\pubworks\pwadmin\formbook\addendumno1.doc.docx

Table of Contents

SECTION	1	Letter of Interest	2
SECTION	2	Relevant Experience of Key Personnel & the Firm	4
SECTION	3	Resumes	11
SECTION	4	Client References	23
SECTION	5	Appendix: Attachments	26

CSG STATEMENT OF QUALIFICATIONS TO Exhibit CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES





May 23, 2022

Tawfic Halaby, Supervising Civil Engineer City of Alameda 950 West Mall Square, Room 110 Alameda, CA 94501

RE: RFQ for On-Call Management & Inspection Services for Various Capital Improvement Projects Including Federally Funded Projects

Dear Mr. Halaby,

CSG Consultants, Inc. is pleased to present its proposal for construction management and inspection services to the City of Alameda (City). Our firm brings specialized municipal expertise, proximity, dedicated and highly experienced staff, and an existing working relationship with the City through longstanding construction management and inspection services. CSG will adhere to the provisions described in the RFQ.

CSG has the availability and time to dedicate the personnel and resources necessary to provide on call consulting services, and a large pool of qualified Construction Managers, Resident Engineers, and Construction Inspectors from which to draw upon depending upon the size, scope, and needs of a project. Many of our staff have worked directly for public agencies in the past and bring first-hand knowledge of jurisdictional constraints and concerns. Our staff has the qualifications requested and are trained and experienced with the latest federal and state requirements as they pertain to working with Caltrans Local Assistance, Capital Improvement Programs (CIP's), and complying with Storm Water Pollution Prevention Plan measures. CSG will team up with **ISI Inspection Services** to provide material testing and special inspection, and **Shiels Sowko Consultants**, **Inc.** to provide additional construction management support.

CSG has provided on-call construction management and construction inspection services for both public works and development projects throughout the Bay Area. Agencies served include the Citles/Towns of Concord, Vallejo, Orinda, Moraga, Santa Clara, Cupertino, Sunnyvale, Foster City, Burlingame, San Mateo, Millbrae, Hillsborough, Daly City, Pacifica, South San Francisco, San Carlos, San Leandro, Marina, and Caltrans. Therefore, we understand the nature of these contracts and the most efficient way to manage them.

CSG has reviewed the Sample Service Provider Agreement and proposes the following exceptions and revisions:

- Section 9. Hold Harmless, Subsection b. At the end of the of the subsection add "The services performed by Provider as described in Exhibit B are considered to be design professional services covered by Civil Code Section 2782.8."
- Section 15. REPORTS, Subsection a. At the end of the subsection add "City shall bear the sole risk of using these documents on other than the intended project."
- Section 19. TERMINATION, subsection b. At the end of the subsection add "Provider may terminate this Agreement for cause by giving thirty (30) days' written notice to City as provided herein."
- Section 25. INTEGRATED CONTRACT At the end of the section add "In the event of a conflict between Attachment B and Sections 30, 31, or 32, Attachment B shall prevail.

I will serve as the primary contact and principal-in-charge for this contract. My contact information is:

Nourdin Khayata, PE | Vice President, Construction Management phone (650) 522-2524 | nourdin@csgengr.com

As a Vice President and a Partner, I am empowered to enter into a binding contract for these services. CSG agrees to be bound by this submittal for a period of 90 days commencing on Monday, May 23, 2022. We are excited about the opportunity to serve the City of Alameda and would welcome the opportunity to talk with you further. If you have any questions or need additional information, please contact me using the information provided above.

Sincerely,

Nourdin Khayata, PE Vice President, CSG Consultants, Inc.



Relevant Experience of Key Personnel & the Firm



KEY PERSONNEL EXPERIENCE

Below is CSG's proposed organizational structure for the City's review. Based on the needs of the City, CSG will provide the appropriate personnel to ensure the request is met. Key personnel are identified with an (*). Resumes for key staff members are provided later in Section 3: Resumes. The key personnel are fully committed to performing work under this contract.



KEY PERSONNEL EXPERIENCE MATRIX

The following is a summary of CSG's select proposed personnel's areas of expertise.

NAME	FUNCTION	YEARS OF EXPERIENCE	BRIDGE & HIGHWAY	STREET IMPROVEMENTS	RETAINING WALLS	PAVING / CONCRETE	SEWER / WATER	WATER POLLUTION CONTROL PLANT	ELECTRICAL LIGHTING / SIGNAL	DEVELOPMENT
Nourdin Khayata, PE	Resident Engineer	30	•	•	•	•	•	•	•	
Dave Bishop, PE	Resident Engineer	24	•	•	•	•	•	•	•	•
Michael Ballard, PE	Resident Engineer	30	•	•	•	•	•	•		•
Bassam Badr	Construction Inspector	25	•	•		•	•	1	•	•
Mojtaba Nahrvar, PE	Asst Resident Engineer	20	•	•	•	•	•	•		•
Ahmad Lamé, PE	Construction Inspector	25	•	•	•	•		1		•
Jim Mazzone	Construction Inspector	33	•	•	•	•	•	•	•	•
Mohamad Zoobi	Construction Inspector	30	•	•	•	•	•	•	•	•
Ramon Bernardo	Construction Inspector	15		•	•	•	•	•	•	•
Terry De Leeuw	Construction Inspector	20		•	•	•	•		1	•
Saeld Mostafavi	Construction Inspector	25		•	•	•	•	•	E	
Peiman Moghadam	Construction Inspector	20	•	•	•	•		•		

100

FIRM EXPERIENCE

The following are examples of projects for which CSG has performed services similar to those requested by the City.

MISSION ROAD BICYCLE AND PEDESTRIAN IMPROVEMENTS PROJECT | TOWN OF COLMA, CA

The Mission Road Project was federally-funded and locally administered by Caltrans Local Assistance. The project is located between El Camino Real to the North and Lawndale Blvd to the South. The improvements included upgrades to the existing sidewalks and driveways to provide ADA accessible walkways and ramps. Rectangular Rapid Flashing Beacons and bulb outs were installed to allow for high visibility and shortened distance at all pedestrian crossings. 27 new pedestrian lights along the East side of Mission Rd provided for enhanced visibility at night. Three bloretention basins and one flow through planter were installed throughout the



project to treat the runoff from the roadway and provide landscaping enhancements to the corridor. There were many constructability challenges with this project. The biggest impact to overcome was maintaining access to the critical business along Mission Rd. Many of the access points were completed by only removing half of the driveway at a time and others were completed by altering the work hours. Other challenges included pedestrian detours, temporary pathways, custom drainage improvements and working with the cemeteries to minimize traffic and noise impact to funeral precessions and ceremonies during the Covid 19 Pandemic. Outreach and coordination directly with all affected businesses was critical to the success of the project.

ANNUAL STREET RESURFACING PROJECT | TOWN OF HILLSBOROUGH, CA

This \$2.7 million federally funded project consisted of roughly 30 miles of pavement maintenance and rehabilitation for residential, collector, and arterial streets in the hillsides of Hillsborough. CSG provided construction management and inspection services for the project. CSG provided the Town with a Resident Engineer to manage the project and oversee the paving contractors and sub-consultants. In addition, CSG provided a full-time project inspector to observe activities in the field and ensure compliance with the Project's Plans and Specifications. Various treatment methods were utilized including Hot Mixed Asphalt (HMA) Overlay, Rubberized Hot Mixed Asphalt (RHMA) Overlay, Crack Sealing, Cape Sealing, Microsurfacing, Digout Repairs, and Skin Patching.

NEIGHBORHOOD STORM DRAIN #9 IMPROVEMENT | CITY OF BURLINGAME, CA

CSG was selected by the City to perform construction management and inspection for this storm drain improvement project. The scope of work included construction of new storm drain inlets, storm drain mains, curbs and gutters, sidewalk, valley gutters, curb ramps, driveway approaches, and replacement of existing storm drain facilities in the public right-of-way and storm drain easements.



E HIGHWAY 1 AT IMJIN PARKWAY OFF-RAMP IMPROVEMENTS | CITY OF MARINA, CA

2018 Project of the Year APWA Monterey Bay Chapter

The City of Marina selected CSG to perform complete construction management for this highway off-ramp improvement project. The project involved the widening of the northbound off-ramp of State Route 1 to Imjin Parkway. The scope of work included widening Imjin Parkway from the northbound off-ramp terminus to approximately 300-feet east. Construction materials and activities included road excavation and backfill, roadway widening with aggregate base, asphalt



concrete pavement and asphalt concrete overlay, installation of one traffic signal at the southbound off-ramp of State Route 1 and Imjin Parkway, storm drain improvements, signing, striping, and other miscellaneous improvements.

2020 PAVEMENT PRESERVATION PROJECT (OBAG 2) | CITY OF SANTA CLARA, CA

CSG provided the construction inspection services for the City's 2020 Pavement Preservation Project. The project involved pavement rehabilitation by bill and replacement, removal and replacement of distressed pavement with new asphaltic concrete pavement, replacement and installation of curb ramps, and replacement of permanent traffic striping and pavement markings. The project spanned several highly trafficked arterials throughout the City. This project was funded through the One Bay Area Grant and required completion of LAPM forms.

2017 FULL DEPTH RECLAMATION PROJECT | CITY OF CONCORD, CA

CSG provided construction management and inspection for a \$2.5 million-dollar roadway rehabilitation project involving the reconstruction of two neighborhood collector streets over a distance of approximately 1.0 miles. The project scope utilized a full depth reclamation (FDR) process which included milling the top surface of asphalt, pulverizing, mixing and cement treating the remaining asphalt and base rock, shaping and compacting the street section to proper grades and then placing rubberized hot-mix asphalt as a top



lift for the new street section. Work scope also included sidewalk repair, curb ramp installations, adjustment of existing utility covers, striping, signage and a section of fiber optics conduit with pull boxes.

The project was started late in the season, with temperature-sensitive rubberized asphalt specified in the work scope. Tracking and maintaining the schedule as well as timely resolution of unforeseen issues was critical to the project's success. Challenges during the project included adjusting the means of construction to deal with a thicker than anticipated existing section of asphalt, researching existing conditions to resolve curb ramp constructability issues at a BART undercrossing and keeping adjacent community members notified with signs and notification flyers. The project was completed on time, within the working days allowed, and within the construction budget.

L PORTAL AND TROUSDALE CHANNEL REHABILITATION PROJECT, PHASE II | CITY OF BURLINGAME, CA

CSG provided construction management and inspection for this channel rehabilitation project. The project consisted of repair and replacement of damaged areas of the concrete lined channels known as Trousdale and El Portal Channels. The Trousdale section was approximately 2,250 linear feet long and

the El Portal section was approximately 2,200 linear feet long. This project also included root barrier installation, fencing replacement and environmental compliance monitoring.

PAVEMENT REHABILITATION PROJECT - PHASE I & II | CITY OF PACIFICA, CA

This federally funded project allowed for the rehabilitation of pavement along Linda Mar Boulevard from Adobe Drive to Oddstad Boulevard and Oceana Boulevard from Milagra Drive to Monterey Road. The project included numerous base repairs, dig-outs, 2-inch mill and fill, dozens of ADA curb ramps, ADA pushbutton signal improvements, new bike lanes with Green MMA striping, signage and pavement markings.



BURLINGAME POINT | CITY OF BURLINGAME, CA

CSG performed construction management & inspection, civil, structural, and C.3 review services for the Burlingame Point Airport Boulevard project. This 18-acre development consists of five new structures that will house a future Facebook campus. The project scope included the relocation of an existing City street, traffic signals and controllers. The project further involved significant underground wet utility infrastructure improvements, including: a new storm drain system with six pump stations, several storm drain outfalls, and two stormwater treatment facilities; a new sewer force main system with two lift stations; and new onsite & offsite



domestic, fire and gray water systems. CSG played a comprehensive role in the construction management & inspection of this project, delivering the following services to the City:

- Chill Engineering Construction Support: CSG reviewed and responded to all submittals, RFI's, and extra work requests for this project. CSG's team also organized and facilitated meetings between key stakeholders.
- Construction Inspection: CSG was committed to the extensive construction management and inspection activities throughout the duration of the project. CSG inspected the construction and installation of all onsite and offsite underground wet utilities, including the new sewer force main spanning from the project site to the City's Sewer Treatment Plant, pump stations, lift stations, waterlines, roadways, outlook area, and shoreline revetment work.
- Construction & Project Management: CSG served as a liaison on behalf of the City for this project, maintaining the essential function of linking the City's internal departments (Sewer, Water, Parks & Recreation, and Public Works) with the Prime Contractor, subcontractors, residents, private utilities (AT&T, Comcast, and PG&E), and government agencies (BCDC, Army Corps of Engineers and Water Board) to ensure each project issue was discussed and professionally resolved and allowing for a smooth, safe, and uninterrupted workflow. CSG also led public relations efforts for this project.

REGNART ROAD SLOPE STABILIZATION | CITY OF CUPERTINO, CA

The City of Cupertino selected CSG to perform field inspection, office engineer, and part time resident engineer services for this slope stabilization project. The project entailed stabilization of a failing slope adjacent to a City street and drainage improvements. The scope involved installation of a retaining wall consisting of 12 soldier pile piers with depths of 35 feet, related horizontal laggings, discharge backdrain pipes, and catch basins with HDPE pipes. Coordination of work to minimize the impacts to the public was one of the major obstacles during this project.



LINCOLN CENTRE LIFE SCIENCES RESEARCH CAMPUS PROJECT | CITY OF FOSTER CITY, CA

CSG performed construction inspection and project management for this \$220 million office development project in the City of Foster City. The project included redevelopment of 14-acres of the Lincoln Center Life Science Research Campus. Seven buildings were demolished for development of this project. The infrastructure work included:



- Cut and cap, abandonment and demolishment of the existing utilities;
- Trenching and installation of approximately 3,600 linear feet (LF) of gravity sewer mains and laterals;
- Installation of 11,500 LF of gravity and force main storm drain lines;
- Installation of 4000 LF of combined domestic, fire and irrigation lines;
- Installation of 1800 LF Chill water piping system;
- Construction of Landscaping and hardscaping;
- Bio-retention and bioswales construction (29 bio-retention areas);
- Roadway Construction;
- Documentation and coordination between City of Foster City and two general contractors;
- Project close-out.

MCCLELLAN ROAD SEPARATED BIKEWAYS - PH 1A AND 1B | CITY OF CUPERTINO, CA

CSG provided construction management and inspection services for the construction of separated bikeways along McClellan Road, creating a safer cycling environment for nearby schools. Phase 1A of the project involved improvements from Stelling to Imperial. Phase 1B of the project involved traffic signal modifications at two locations, as well as sidewalk, curb, and roadway reconstruction.

AIRPORT BOULEVARD REHABILITATION | CITY OF WATSONVILLE, CA

CSG provided resident engineer and inspection personnel to oversee the construction of approximately one mile of sidewalk along the north and south sides of Airport Boulevard. This \$2.2 million project included the demolition and construction of curb and gutters, removal and installation of electrical boxes, signal boxes, water meter boxes and conduits for future fiber optics, pavement removal and reconstruction, in addition to miscellaneous items.

GENERAL FIRM INFORMATION

CSG Consultants, Inc. (CSG) is an employee-owned California company with its local office in Pleasanton and headquarters in Foster City, CA. Additional support is available from our other offices in San Jose, Sacramento, Newman, Fresno, and Orange. Founded in 1991, *CSG performs work solely for public agencies*, eliminating the potential for conflicts of interest between developers and agencies. In this way, we can focus exclusively on the specific needs of our municipal clients.

NAME OF FIRM: CSG Consultants, Inc.

POINT OF CONTACT	Nourdin Khayata, PE Vice President of Construction Management (650) 333-0831 nourdin@csgengr.com
HEADQUARTERS:	550 Pilgrim Drive, Foster City, CA 94404 (650) 522-2500 phone • (650) 522-2599 fax www.csgengr.com • csgstaff@csgengr.com
LOCAL OFFICE:	3875 Hopyard Road, Suite 141, Pleasanton, CA 94588 (925) 931-0370 phone • (925) 931-0388 fax
REGIONAL OFFICES:	1303 J Street, #270, Sacramento, CA 95814 3150 Almaden Expressway, #255, San Jose, CA 95118 930 Fresno Street, Newman, CA 95360 5151 N. Palm Avenue, Suite 530, Fresno, CA 93704 3707 W. Garden Grove Boulevard, Suite 100, Orange, CA 92868

YEARS IN BUSINESS: 30 • Founded in 1991

OWNERSHIP: Employee-Owned

EMPLOYEES: 300+ (Company Wide)

TYPE OF BUSINESS: California Corporation • Incorporated June 15, 2000 • Federal ID: 91-2053749

Services Composition

CONSTRUCTION MANAGEMENT & INSPECTION



Contract Administration, including: Resident Engineer Oversight, Inspection and Construction Management Constructability/Bidability Reviews Cost and Schedule Control Cioims Avoidance

				Τ.
_		_		
-	-			
		-	-	

PROGRAM & PROJECT MANAGEMENT

Capital Improvement Program Development and Implementation Federal and State Grant Administration Rule 20A Undergrounding Staff Augmentation Including: Design Consultant Coordination, Project Scoping, RFP Preparation

Г		54	T.		1
	-	62	-		\$
L	-1	63	-	77	ē.
	-	12	1	1	I.

CIVIL & STRUCTURAL DESIGN

Capital Improvement Project Design: Transportation/Roadway, Bridges, Water and Sewer Utilities, Traffic Engineering

-	-	-	-	_
		1:1	L	
	1	-	6	-
н.		ч	é	-
÷	T)	ň	17	2

DEVELOPMENT & MAP REVIEW

Development Review, Plan Check, Surveying, City Surveyor and Mapping, Storm Water Program Compliance (NPDES, QSP/QSD)

CSG STATEMENT OF QUADIFICATIONS TO Exhibits OF CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES

Resumes



RESUMES

Resumes of proposed key personnel are provided on the following pages for the City's review. Additional resumes may be provided upon request.

FEE SCHEDULE

CSG's fee schedule which includes fees for personnel providing the proposed scope of work is provided in the table below. Services are billed on a time and materials basis according to our Standard Rates.

Professional Engineering Services – Hou	rly Rates
Resident Engineer	\$210
Structure Representative	\$210
Assistant Resident Engineer / Office Engineer	\$150
Senior Construction Inspector	\$165
Construction Inspector	\$150
Administrative Assistant	\$80

All hourly rates are all inclusive and include the use of a vehicle, laptop, cell phone, safety equipment, and other equipment necessary to perform services

Rates shall be valid for an initial term of one (1) year following contract execution, to be renegotiated annually. CSG will mail an invoice every month for services rendered during the previous month.

A yearly increase will be applied based on the CPI

Overtime will be billed at a rate of the individual's hourly rate x 1.5.





CSG staff has provided construction management services for capital improvement and private development related projects to many jurisdictions throughout the Bay Area. Project types include roadway rehabilitation and surface improvements; street resurfacing; concrete curb ramp and sidewalk improvements; bike and pedestrian improvements; bridge rehabilitations, sewer, water, drainage, and Rule 20A utility undergrounding; parks, trails, playgrounds, and landscaping improvements; facilities and building renovation projects; as well as developer-funded improvements. References for clients familiar with CSG's construction management and inspection expertise are provided on the following pages using Attachment C. . Additional clients can be provided upon request.

Exhibit C

Client References

The following is a list of four (4) references (public agencies preferred).

Reference #1	
Name of Organization: City of Sunnyvale	
Address: 456 West Olive Avenue, Sunnyvale, CA	94086
Contact Name: Nasser Fakih	Contact Title: Assistant City Engineer
Telephone: (408) 730-7605	Email:nfakih@ci.sunnyvale.ca.us
Summary of Project: CSG provides Construction N	Management and Inspection services
to the City of Sunnyvale.	
Consultant's Service Dates: 2009 - Ongoing	
Consultant's Contract Amount: Contract amount	can be provided upon request from the City.
Estimated Total Project Cost: N/A	
Project Completion Date: _N/A	
Reference #2	
Name of Organization: Town of Hillsborough	
Address: 1320 La Honda Road, Hillsborough, CA S	94010
Contact Name: Paul Willis	Contact Title: Public Works Director/City Engineer
Telephone: (650) 375-7444	Email: pwillis@hillsborough@net
Summary of Project: CSG provides Construction M	Management and Inspection services
to the Town of Hillsborough.	
Consultant's Service Dates: 2016 - Ongoing	
Consultant's Contract Amount: Contract amount	
constituites contract milount.	can be provided upon request from the Town.
	can be provided upon request from the Town.

Exhibit C

Client References

The following is a list of four (4) references (public agencies preferred).

Reference #3	
Name of Organization: Town of Colma	
Address: 1198 El Camino Real, Colma, CA 94014	
Contact Name: Brian Dossey	Contact Title: City Manager
Telephone:_(650) 997-8300	Email: brian.dossey@colma.ca.gov
Summary of Project: CSG provides Construction M	Aanagement and Inspection services
to the Town of Colma.	
Consultant's Service Dates: 2007 - Ongoing	
Consultant's Contract Amount:Contract amount	can be provided upon request from the Town.
Estimated Total Project Cost: N/A	
Project Completion Date: N/A	
Reference #4	
Name of Organization: City of Cupertino	
Address: 10300 Torre Avenue, Cupertino, CA 951	04
Contact Name: John Raaymakers	Contact Title: Project Manager
Telephone: (408) 777-3100	Email: johnr@cupertino.org
Summary of Project: CSG provides Construction	nspection services for the City of Cupertino.
Consultant's Service Dates: 2016 - Ongoing	
Consultant's Contract Amount: Contract amount	can be provided upon request from the City.
Estimated Total Project Cost: N/A	
Project Completion Date: N/A	

Appendix: Attachements



The following Local Assistant Procedure Manual Forms are provided on the following pages for the City's review.

- Exhibit 10-K Consultant Annual Certification of Indirect Costs and Financial Management System
- Exhibit 10-01 Consultant Proposal DBE Commitment

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

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

Consultant's Full Legal Name: CSG Consultants, Inc.

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

Indirect Cost Rate:

Combined Rate 148.09 % OR

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

Facilities Capital Cost of Money____% (if applicable)

Fiscal period * 01/01/21-12/31/21

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

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

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

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

Financial Management System:

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

Our financial management system has the following attributes:

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

Local Assistance Procedures Manual

accounts;

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

Cost Reimbursements on Contracts:

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

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

All A&E Contract Information:

- Total participation amount \$ 5,100,000.00 on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is 1
- Years of consultant's experience with 48 CFR Part 31 is 14
- Audit history of the consultant's current and prior years (if applicable)
 Cognizant ICR Audit
 Local Gov't ICR Audit

Caltrans ICR Audit

- CPA ICR Audit
 - Federal Gov't ICR Audit

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

Name**: Nourdin Khayata	Title**: VP Construction Management
Signature: Maly a	Date of Certification (mm/dd/yyyy): 05/23/2022
Email**: nourdin@csgengr.com	Phone Number**: Nourdin Khayata

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

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

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

Local Assistance Procedures Manual

Exhibit 10-01 Consultant Proposal DBE Commitment

Reset Form

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: City of Alameda		2. Contract DBE Goal: 0						
3. Project Description: On-Call Construction M	Management & Inspection Se							
4. Project Location: Alameda, CA								
5. Consultant's Name: CSG Consultants, Inc.	6. Prime Certified DBE:							
7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Informa	tion	10. DBE %				
Materials Testing and Special Inspections	32109	Leslie Sakai - leslie@inspectionse 519-900-2100	rvices.net	TBD				
Local Agency to Complete the 17. Local Agency Contract Number: 18. Federal-Aid Project Number:		11. TOTAL CLAIMED DBE PAR	TICIPATION	%				
Consultant's Ranking after Evaluation: Local Agency certifies that all DBE certifications a this form is complete and accurate.	are valid and information on	IMPORTANT: Identify all DBE firms regardless of tier. Written confirmat required.	tion of each listed	DBE is				
21. Local Agency Representative's Signature	22. Date	12. Preparer's Signature Nourdin Khayata	13. Date (714) 56	58-1010				
23. Local Agency Representative's Name 25. Local Agency Representative's Title	24. Phone	14. Preparer's Name Vice President 16. Preparer's Title	15. Phone					

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

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

1

CSGCONS-01

MHILL

DATE (MM/DD/YYYY)	
40/46/0004	

								CS	GCONS-01		MHILL
A	C	ORD	EF	RTI	FICATE OF LIA	BIL		URAN	CE		(MM/DD/YYYY) /16/2021
C B		CERTIFICATE IS ISSUED AS A TIFICATE DOES NOT AFFIRMAT DW. THIS CERTIFICATE OF INS RESENTATIVE OR PRODUCER, AN		Y OI	R NEGATIVELY AMEND, E DOES NOT CONSTITU	EXTE	ND OR ALT	ER THE CO	OVERAGE AFFORDED	TE HOI BY TH	LDER. THIS E POLICIES
lf	SU	RTANT: If the certificate holde BROGATION IS WAIVED, subject sertificate does not confer rights to	ct to	the	terms and conditions of	the po	licy, certain	policies may			
PRO							^{c⊤} Melissa				
Allia	ant I	nsurance Services, Inc.				PHONE (A/C, No			FAX (A/C, No):		
		rket St Ste 3600 Incisco, CA 94105						Hill@alliant	t.com		
Cun						ADDRE					NAIC #
						INCUDE		and a subscription of the second s	asualty Company of Am	erica	25674
INSI	RED							surance Co		loniou	11150
	ILD.					INSURE		Surance of	Inpany		11130
		CSG Consultants, Inc. 550 Pilgrim Drive				INSURE					
		Foster City, CA 94404				INSURE					
						INSURE					
CO		RAGES CER	TIEI	-	E NUMBER:	INSURE	κг.		REVISION NUMBER:		
		IS TO CERTIFY THAT THE POLICIE			The state of the second constant of the second s			and hard states and see and	and the second	HE PO	ICY PERIOD
IN C	IDIC ERT	ATED. NOTWITHSTANDING ANY R IFICATE MAY BE ISSUED OR MAY USIONS AND CONDITIONS OF SUCH	EQUI	REM TAIN,	ENT, TERM OR CONDITION THE INSURANCE AFFOR	N OF A DED BY	NY CONTRA THE POLIC	CT OR OTHER	R DOCUMENT WITH RESPE	ECT TO	WHICH THIS
INSR		TYPE OF INSURANCE	ADDL	SUBR	POLICY NUMBER		POLICY EFF	POLICY EXP (MM/DD/YYYY)	LIMIT	s	
A	X	COMMERCIAL GENERAL LIABILITY					(11111)		EACH OCCURRENCE	\$	1,000,000
		CLAIMS-MADE X OCCUR	x	x	P-660-5R143841-TIL-21		12/4/2021	12/4/2022	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	1,000,000
									MED EXP (Any one person)	\$	10,000
									PERSONAL & ADV INJURY	\$	1,000,000
	GE	N'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$	2,000,000	
		POLICY X PRO- JECT LOC							PRODUCTS - COMP/OP AGG	\$ \$	2,000,000
Α	AU								COMBINED SINGLE LIMIT	\$ \$	1,000,000
2010	X	ANY AUTO	x	x	x 810-5R143576-21-43-G	12/4/2	12/4/2021	12/4/2022	(Ea accident) BODILY INJURY (Per person)	\$	
	-	OWNED SCHEDULED AUTOS	^	^					BODILY INJURY (Per accident)		
	-	HIRED AUTOS ONLY AUTOS ONLY							PROPERTY DAMAGE (Per accident)	\$	
	x	APD Owned Autos Only							Comp/Coll Ded.	s	2,000
A	X	UMBRELLA LIAB X OCCUR							EACH OCCURRENCE	\$	5,000,000
		EXCESS LIAB CLAIMS-MADE			CUP-7S954134-21-NF		12/4/2021	12/4/2022	AGGREGATE	\$	5,000,000
		DED X RETENTION \$ 10,000							AGGREGATE	s	- 1990) - B
A	wo	RKERS COMPENSATION D EMPLOYERS' LIABILITY							X PER OTH- STATUTE ER	Ψ	
	12000				UB-5R147157-21-43-G		12/4/2021	12/4/2022	E.L. EACH ACCIDENT	s	1,000,000
	OFF (Ma	ICER/MEMBER EXCLUDED?	N/A						E.L. DISEASE - EA EMPLOYEE		1,000,000
	If ye	es, describe under SCRIPTION OF OPERATIONS below							E.L. DISEASE - POLICY LIMIT		1,000,000
в		ofessional Liab.			PAAEP0008806		12/4/2021	12/4/2022	Ded: \$50,000; Agg:	Ψ	5,000,000
City with	of A Wa	TION OF OPERATIONS / LOCATIONS / VEHIC Nameda, its City Council, boards an iver of Subrogation and 30 Day Noti	d co	mmis	ssions, officers, Volunteers	s, officia	als and emplo	— DS	red) luded as additional insurd /21/2022	eds on	GL & Auto
CE	RTII	FICATE HOLDER				CANC	ELLATION				
		City of Alameda Public Works Department Alameda Point, Building 1 Alameda, CA 94501-7558				THE	EXPIRATIO	N DATE TH	ESCRIBED POLICIES BE C. IEREOF, NOTICE WILL Y PROVISIONS.		
						D.)	B.S.				

© 1988-2015 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – WRITTEN CONTRACTS (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is limited as follows:

- c. In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III Limits Of Insurance.
- d. This insurance does not apply to the rendering of or failure to render any "professional services" or construction management errors or omissions.
- e. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "productscompleted operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured ap-

plies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph 4.a. of SEC-TION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

The insurance provided to the additional insured is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and noncontributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But this insurance provided to the additional insured still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any "other insurance".

3. The following is added to SECTION IV – COM-MERCIAL GENERAL LIABILITY CONDITIONS:

Duties Of An Additional Insured

As a condition of coverage provided to the additional insured:

a. The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

- How, when and where the "occurrence" or offense took place;
- ii. The names and addresses of any injured persons and witnesses; and
- iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against the additional insured, the additional insured must:
 - i. Immediately record the specifics of the claim or "suit" and the date received; and
 - ii. Notify us as soon as practicable.

The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d. The additional insured must tender the defense and indemnity of any claim or "suit" to

COMMERCIAL GENERAL LIABILITY ISSUE DATE: 12-4-21

any provider of other insurance which would cover the additional insured for a loss we cover. However, this condition does not affect whether this insurance provided to the additional insured is primary to that other insurance available to the additional insured which covers that person or organization as a named insured.

4. The following is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- After the signing and execution of the contract or agreement by you;
- While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS

This endorsement modifies insurance provided under the following: COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- A. Non-Owned Watercraft 75 Feet Long Or Less
- B. Who Is An Insured Unnamed Subsidiaries
- C. Who Is An Insured Retired Partners, Members, Directors And Employees
- D. Who Is An Insured Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees
- E. Who Is An Insured Newly Acquired Or Formed Limited Liability Companies
- F. Blanket Additional Insured Controlling Interest
- G. Blanket Additional Insured Mortgagees, Assignees, Successors Or Receivers

PROVISIONS

- A. NON-OWNED WATERCRAFT 75 FEET LONG OR LESS
 - The following replaces Paragraph (2) of Exclusion g., Aircraft, Auto Or Watercraft, in Paragraph 2. of SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY:
 - (2) A watercraft you do not own that is:
 - (a) 75 feet long or less; and
 - (b) Not being used to carry any person or property for a charge;
 - The following replaces Paragraph 2.e. of SECTION II – WHO IS AN INSURED:
 - e. Any person or organization that, with your express or implied consent, either

- Blanket Additional Insured Governmental Entities – Permits Or Authorizations Relating To Premises
- Blanket Additional Insured Governmental Entities – Permits Or Authorizations Relating To Operations
- J. Incidental Medical Malpractice
- K. Medical Payments Increased Limit
- L. Amendment Of Excess Insurance Condition Professional Liability
- M. Blanket Waiver Of Subrogation When Required By Written Contract Or Agreement
- N. Contractual Liability Railroads

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;
- B. WHO IS AN INSURED UNNAMED SUBSIDIARIES

The following is added to SECTION II – WHO IS AN INSURED:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

POLICY NUMBER: P-660-5R143841-TIL-21

b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II - Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
- b. An organization other than a partnership, joint venture or limited liability company; or
- c. A trust;

as indicated in its name or the documents that govern its structure.

C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2. of SECTION II – WHO IS AN INSURED:

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

- (1) "Bodily injury":
 - (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
 - (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation professional health care of providing services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- (2) "Personal injury":
 - (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current ог retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
- (3) "Property damage" to property:
 - (a) Owned, occupied or used by; or
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director. D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES

The following replaces Paragraph 3. of SECTION II – WHO IS AN INSURED:

- 3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only:
 - (1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or
 - (2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
- An organization other than a partnership, joint venture or limited liability company; or
- c. A trust;

as indicated in its name or the documents that govern its structure.

- F. BLANKET ADDITIONAL INSURED CONTROLLING INTEREST
 - 1. The following is added to SECTION II WHO IS AN INSURED:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of SECTION II – WHO IS AN INSURED:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS

The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

 a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

POLICY NUMBER: P-660-5R143841-TIL-21

subsequent to the signing of that contract or agreement; and

b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
 - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
 - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

The following is added to SECTION II – WHO IS AN INSURED:

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising sians. awnings. canopies, cellar entrances, holes, coal driveways, manholes, marquees, hoist away openings, sidewalk vaults, elevators, street banners or decorations.

I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to SECTION II – WHO IS AN INSURED:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

J. INCIDENTAL MEDICAL MALPRACTICE

- 1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:
 - b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.
- The following replaces the last paragraph of Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide:

(a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,

POLICY NUMBER: P-660-5R143841-TIL-21

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

- (b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.
- The following replaces the last sentence of Paragraph 5. of SECTION III – LIMITS OF INSURANCE:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

 The following exclusion is added to Paragraph 2., Exclusions, of SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of the insured.

5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- Medical, surgical, dental, laboratory, xray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.
- 6. The following is added to Paragraph 4.b., Excess Insurance, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis,

that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph **2.a.(1)** of Section II – Who Is An Insured.

K. MEDICAL PAYMENTS - INCREASED LIMIT

The following replaces Paragraph 7. of SECTION III – LIMITS OF INSURANCE:

- Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:
 - a. \$10,000; or
 - b. The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.
- L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY

The following is added to Paragraph 4.b., Excess Insurance, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage **A** or Coverage **B**.

M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

The following is added to Paragraph 8., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

If the insured has agreed in a written contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or
- b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the signing of that contract or agreement.

N. CONTRACTUAL LIABILITY - RAILROADS

- The following replaces Paragraph c. of the definition of "insured contract" in the DEFINITIONS Section:
 - c. Any easement or license agreement;
- Paragraph f.(1) of the definition of "insured contract" in the DEFINITIONS Section is deleted.



WORKERS COMPENSATION AND EMPLOYERS LIABILITY POLICY

ENDORSEMENT WC 99 03 76 (A) -

POLICY NUMBER: UB-5R147157-21-43-G

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT – CALIFORNIA (BLANKET WAIVER)

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

The additional premium for this endorsement shall be % of the California workers' compensation premium.

Schedule

Person or Organization

Job Description

ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS WAIVER.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective	12/04/2021	Policy No.	UB-5R147157-21-43-G	Endorsement No.
Insured		17.1)		Premium

Insurance Company

Countersigned by _____