

NOTICE

***THIS MEETING WILL BE CONDUCTED VIA WEBINAR/TELECONFERENCE.
THE COUNCIL CHAMBERS WILL NOT BE OPEN TO THE PUBLIC.***

Pursuant to Sec. 3 of Executive Order N-29-20 issued by Governor Newsom on March 17, 2020, this meeting will be conducted remotely via the ZOOM virtual meeting platform. In compliance with the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will be no in-person meeting location at which the public may appear.

**ALL PARTICIPANTS WILL BE MUTED AUTOMATICALLY UPON ENTERING THE MEETING.
THE CITY CLERK WILL UNMUTE THOSE WHO WISH TO SPEAK AT THE APPROPRIATE TIME.
PLEASE KEEP YOURSELF ON MUTE WHEN NOT SPEAKING.**

LISTEN TO THE MEETING LIVE VIA ZOOM

Members of the public may participate in this meeting by joining the ZOOM conference via PC, Mac, iPad, iPhone, or Android device using the URL: <https://zoom.us/j/493354110>

If you do not wish for your name to appear on the screen, you may "rename" yourself to be anonymous.

VERBAL PARTICIPATION USING ZOOM

If you want to provide public comments and are using a computer or laptop without a microphone, you will also need to call in using the information below and dial your Participant ID on the phone when prompted.

Please use the "Raise Hand" button to request to speak.

LISTEN TO THE MEETING LIVE VIA TELEPHONE

The public may participate via phone by dialing the below numbers:

**Teleconference Number: 1-669-900-6833
Meeting ID: 493 354 110**

If you are not going to be requesting to speak and do not want your phone number to appear on the screen, dial *67 before the Teleconference Number.

VERBAL PARTICIPATION OVER THE PHONE

Please dial *6 to mute and unmute yourself, and *9 to "raise your hand" to request to speak.

Raised hands will only be acknowledged during the Public Hearing and Public Comment sections of the agenda, and when the Meeting's presiding officer requests comments from the public.

VIRTUAL SPEAKER CARDS

To provide verbal comments during the meeting, please visit www.cityofmontclair.org/cc-comment to fill out a Virtual Speaker Card to request to speak in advance. Members of the public on the call who did not fill out the Virtual Speaker Card will be given an opportunity to speak after those who requested to speak in advance. Please do not call into the meeting anonymously or hide your identity if you submitted a Virtual Speaker Card so the City Clerk can identify you on the call and unmute you at the appropriate time.

You may also call the City Clerk at (909) 625-9416 to fill out the Virtual Speaker Card over the phone or e-mail your name, phone number if calling in during the meeting, and subject of comment or agenda item to cityclerk@cityofmontclair.org with "[Meeting Date] Virtual Speaker Card" as the subject line.

Written comments may be submitted using the Virtual Speaker Card or via e-mail or mail, and will be read aloud during the meeting by the City Clerk at the appropriate time (250 word limit). Please submit all Virtual Speaker Cards or written comments at least one hour prior to the meeting's start time.

CITY OF MONTCLAIR

**REGULAR JOINT MEETING OF THE
CITY COUNCIL, SUCCESSOR AGENCY, MONTCLAIR HOUSING CORPORATION,
MONTCLAIR HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY FOUNDATION**

AGENDA

Monday, April 6, 2020
7:00 p.m.

As a courtesy, please place yourself on mute while the meeting is in session, unless speaking (Dial *6 on the phone to toggle mute).

Persons wishing to make a public comment or speak on an agenda item, including public hearing and closed session items, are requested to complete a Virtual Speaker Card (VSC) at www.cityofmontclair.org/cc-comment. The Mayor/Chair (or the meeting's Presiding Officer) will recognize those who have submitted a VSC at the time of the item's consideration and invite those individuals to provide comments on the item at that time. Those who did not fill out a VSC will have an opportunity to speak after those who did by using the "raise hand" function on the ZOOM meeting platform or over the phone by dialing *9.

Audio recordings of the CC/SA/MHC/MHA/MCF meetings are available on the City's website at www.cityofmontclair.org and can be accessed by the end of the next business day following the meeting.

- I. **CALL TO ORDER** City Council [CC], Successor Agency Board [SA],
Montclair Housing Corporation Board [MHC],
Montclair Housing Authority Commission [MHA],
Montclair Community Foundation Board [MCF]

II. **INVOCATION**

In keeping with our long-standing tradition of opening our Council meetings with an invocation, this meeting may include a nonsectarian invocation. Such invocations are not intended to proselytize or advance any faith or belief or to disparage any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

III. **PLEDGE OF ALLEGIANCE**

IV. **ROLL CALL**

V. **PRESENTATIONS**

- A. San Bernardino County COVID-19 Update by Fourth District Supervisor and Chair of the Board of Supervisors Curt Hagman
- B. 2020 Census Update by U.S. Census Bureau Local Partner Renay Mehta
- C. Proclamation Declaring April 2020 as Child Abuse Prevention Month in the City of Montclair

VI. **PUBLIC COMMENT**

This section is intended to provide members of the public with an opportunity to comment on any subject that does not appear on this agenda. Each speaker will be afforded up to five minutes to address the City Council/Boards of Directors/Commissioners. (Government Code Section 54954.3)

Under the provisions of the Brown Act, the meeting bodies are prohibited from participating in substantial discussion of or taking action on items not listed on the agenda.

VII. **PUBLIC HEARINGS** — None

Page No.

VIII. **CONSENT CALENDAR**

- A. Approval of Minutes
 - 1. Regular Joint Meeting — March 16, 2020 [CC/SA/MHC/MHA/MCF]
- B. Administrative Reports
 - 1. Consider Approval of Warrant Register & Payroll Documentation [CC] 4
- C. Agreements
 - 1. Consider Approval of Agreement No. 20-17 with Biggs Cardosa Associates, Inc., Amending Agreement No. 19-10 for Construction Management Services Associated with the Central Avenue Street Rehabilitation Project Phase I [CC] 5

- 2. Consider Approval of Agreement No. 20-22 with the State of California Natural Resources Agency, Department of Parks and Recreation Accepting Statewide Park Development and Community Revitalization Program Grant Funds to Develop Reeder Ranch Park [CC]
Consider Authorizing City Manager Edward C. Starr to Execute Agreement No. 20-22 on Behalf of the City [CC] 10
- 3. Consider Approval of Agreement No. 20-23 with Biggs Cardosa Associates, Inc., for Design Services Associated with the Central Avenue Bridge Project [CC] 21

D. Resolutions — None

IX. PULLED CONSENT CALENDAR ITEMS

X. COUNCIL WORKSHOP

A. Vital City Services Protection Transactions and Use Tax [CC]

(The City Council may consider continuing this item to an adjourned meeting on Monday, April 20, 2020, at 5:45 p.m.)

XI. COMMUNICATIONS

A. City Department Reports — None

B. City Attorney

C. City Manager/Executive Director

1. COVID-19 Update

D. Mayor/Chairperson

E. Council Members/Directors

F. Committee Meeting Minutes *(for informational purposes only)* — None

XII. ADJOURNMENT

The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Monday, April 20, 2020, at 7:00 p.m. in the City Council Chambers.

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the Acting Bodies after publication of the Agenda packet are available for public inspection in the Office of the City Clerk between 7:00 a.m. and 6:00 p.m., Monday through Thursday. Pursuant to the Governor's Executive Orders in relation to the COVID-19 pandemic, please call the City Clerk's Office at (909) 625-9416 or send an e-mail to cityclerk@cityofmontclair.org to request such review of items via e-mail.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (909) 625-9416 or e-mail cityclerk@cityofmontclair.org. Notification at least two business days prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)

I, Andrea M. Phillips, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the north door of Montclair City Hall at 5111 Benito Street, Montclair, CA 91763 on Thursday, April 2, 2020.



CITY COUNCIL AGENDA REPORT

DATE:	APRIL 6, 2020	FILE I.D.:	FIN540
SECTION:	CONSENT - ADMIN. REPORTS	DEPT.:	FINANCE
ITEM NO.:	1	PREPARER:	L. LEW/V. FLORES
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of the Warrant Register and Payroll Documentation.

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated April 6, 2020; and the Payroll Documentation dated March 1, 2020; and recommends their approval.

FISCAL IMPACT: The Warrant Register dated April 6, 2020, totals \$2,422,756.14; and the Payroll Documentation dated March 1, 2020, totals \$635,579.39 gross, with \$444,719.10 net being the total cash disbursement.

RECOMMENDATION: Staff recommends the City Council approve the above-referenced Warrant Register and Payroll Documentation.



CITY COUNCIL AGENDA REPORT

DATE:	APRIL 6, 2020	FILE I.D.:	STA805B
SECTION:	CONSENT - AGREEMENTS	DEPT.:	PUBLIC WORKS
ITEM NO.:	1	PREPARER:	N. CASTILLO

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 20-17 WITH BIGGS CARDOSA ASSOCIATES, INC., AMENDING AGREEMENT NO. 19-10 FOR CONSTRUCTION MANAGEMENT SERVICES ASSOCIATED WITH THE CENTRAL AVENUE STREET REHABILITATION PROJECT PHASE I

REASON FOR CONSIDERATION: Construction management, inspection, and public relations services are necessary components of the Central Avenue Street Rehabilitation Project (the "Project"). Due to the size, scope, and cost of the Project, construction management services from a construction management firm are necessary. The City executed a construction management services agreement with Biggs Cardosa Associates, Inc. ("BCA") as Agreement No. 19-10. However, due to unforeseen circumstances during the initial stages of the Project, an amendment to the existing agreement with BCA is now necessary. Agreements (including amendments) with the City require City Council approval.

BACKGROUND: On September 18, 2017, the City Council adopted the Fiscal Years 2017-2022 Capital Improvement Program (CIP), which included the Central Avenue Street Rehabilitation Project Phase I. The Central Avenue Street Rehabilitation Project Phase I begins from the southern city limit and extends north to the I-10 Freeway. The Project includes pavement rehabilitation; removal and reconstruction of a concrete median curb, sidewalk, drive approaches, and ADA access ramps; traffic signal modifications; landscape and irrigation improvements within the existing medians; installation of an 8' recycled water main; and installation of traffic signing and striping.

After reviewing responses to the City's RFP for construction management, inspection, and public relations services, City staff determined that the proposal submitted by Biggs Cardosa Associates, Inc., in the amount of \$312,869, was the most responsive bid. Their proposal exhibited the required knowledge and experience in the completion of previous projects of a similar nature to the Project. The City selected BCA due to the firm's overall team approach, and retention of a senior onboard inspector and seasoned public relations staff.

During Project construction, there have been several unforeseen circumstances that have expanded the scope and work of the construction management team, resulting in a need to increase the initial estimate for the Project. BCA's initial proposal was based on a five-month construction schedule provided in the RFP, and the firm's services were initially obtained for construction management only. Due to changes to the scope of work and unforeseen challenges related to the constructability of the Project, the budget for BCA's services was expended in the initial stage of the Project. In that stage, BCA's resources were utilized to assist the City in several tasks, including coordination, constructability reviews, meetings, public relations, administrative tasks, and other similar assignments that could not have been anticipated initially in the BCA original agreement with the City. Construction on the Project commenced in November 2019; however, BCA's services were engaged early in March 2019. The Project's construction completion timeline has been revised to June 18, 2020, almost five months beyond the original timeframe. The

schedule adjustments are necessary to accommodate post-design changes, constructability issues, delays in obtaining Caltrans' encroachment permits, and other challenges described in the following paragraphs.

Among the significant and unforeseen project challenges is the condition of the subsurface of the roadway as discovered during potholing. Determining the location of traffic signals represented an acute concern due to subsurface conditions. Resolving subsurface-related challenges, particularly concerning the location of traffic signals, required specific design changes and the commitment of additional resources beyond the Project's allocation of funds for construction management.

The Project is also experiencing several other challenges. They include multiple design changes, delays in obtaining the Caltrans encroachment permit, additional County inspection requirements, expansion of the magnitude of work, additional ramps for ADA compliance, additional potholing, unidentified underground structures, complications with the civil plans, and the delay between the start of BCA's work and the construction start date. Therefore, it is deemed necessary to secure additional funds to continue retaining the full range of services of BCA until the completion of the Project. Accordingly, BCA was asked to submit a proposal for additional staffing and extension of the existing agreement.

The revised proposal from BCA has been reviewed and is found to be responsive and accountable for ongoing Project needs. Furthermore, the revised bid estimate is within Total Installed Cost (TIC) parameters for a large project of this type. For a project of \$1 million to \$10 million TIC, construction management costs for all phases generally total between 7 to 11 percent of TIC.

As proposed, the additional cost of construction management is an increase of \$353,274.90, bringing the total cost for construction management services to a total not-to-exceed \$666,274.90, or approximately 9 percent of the TIC. An agreement amendment for continuing project construction management services with BCA would provide for a better overall quality of construction. Please note that the proposed additional services requested by BCA include a reasonable scope of services which will cover the delay repercussions that will be generated from Caltrans issuance of the permit for the section of work north of Palo Verde.

FISCAL IMPACT: The total construction project budget, estimated at \$7,400,000, is provided through Lease Revenue Bond Proceeds. Amending the agreement with BCA for an amount of \$353,274.90 to continue the current construction management services with increased scope would provide for a revised total not to exceed \$666,274.90.

RECOMMENDATION: Staff recommends that the City Council approve Agreement No. 20-17 with Biggs Cardosa Associates, Inc., amending Agreement No. 19-10 for construction management services associated with the Central Avenue Street Rehabilitation Project Phase I.

**AMENDMENT NO. 1 TO AGREEMENT NO. 19-10
WITH
BIGGS CARDOSA ASSOCIATES, INC.
FOR
CONSTRUCTION MANAGEMENT SERVICES
FOR THE CENTRAL AVENUE REHABILITATION PROJECT**

This is the first amendment to Agreement No. 19-10 by and between the City of Montclair, California, a municipal corporation, ("City") and Biggs Cardosa Associates a California corporation ("Consultant") dated this 6th day of April, 2020. It is hereby agreed to amend Agreement No. 19-10 dated January 22, 2019, as follows:

1. TERM

This contract amendment shall commence on April 6, 2020, and terminate on December 17, 2020, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

No changes

3. PERFORMANCE

No changes

4. CITY MANAGEMENT

No changes

5. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in a new Exhibit A, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed \$666,274.90 for the total term of the agreement, including an additional payment of \$353,274.90 for additional services.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall total compensation exceed Ten Thousand

Dollars (\$10,000.00). Any additional work in excess of this amount shall be approved by the City Council.

(c) Consultant will submit invoices monthly for actual services performed. Said invoices shall detail all costs, rates and hours for individual tasks. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of the Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

Sections 6. through 23.

No changes

IN WITNESS THEREOF, the parties hereto execute this Agreement as of the day and year first set forth above.

CITY OF MONTCLAIR, CALIFORNIA

BIGGS CARDOSA ASSOCIATES

By: _____
Javier John Dutrey, Mayor

By: _____
Title: _____

Attest: _____
Andrea M. Phillips, City Clerk

Date: _____

Date

By: _____
Title: _____

Approved as to form:

Date: _____

Diane E. Robbins, City Attorney

EXHIBIT A RATES

ADDITIONAL CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES Central Avenue, City of Montclair

Project Completion July 15th, 2020 as per latest schedule update
 Project Close-out

CM Services Key Staff	Total Budget (\$)	Expenditure as of December 31, 2019	Amount Remaining as of December 31, 2019	Traffic Signal Installation						Total Additional hours	Rate/Hour (5% increase)	Total Additional Fees	
				Jan. 20 (Hours)	Feb. 20 (Hours)	March 20 (Hours)	April 20 (Hours)	May 20 (Hours)	June 20 (Hours)				7/15/2020 (Hours)
PRINCIPLE-IN-CHARGE (Michael Thomas - BCA)	\$3,000		\$3,000								0	\$282.50	\$0
ADMIN (BCA)	\$13,248	\$5,184	\$8,064	12.0	12.0	12.0	12.0	12.0	12.0	12.0	96	\$86.00	\$9,274
CONSTRUCTION MANAGEMENT	\$87,500	\$72,044	\$25,457	164.0	164.0	164.0	164.0	164.0	164.0	80.0	1,228	\$164.25	\$238,539
CONSTRUCTION INSPECTION	\$128,800	\$38,475	\$88,425	174.0	174.0	174.0	174.0	174.0	174.0	24.0	1,148	\$141.75	\$162,729
PUBLIC OUTREACH (Kathy Ortiz - Arellano and Associates)	\$22,892	\$11,478	\$11,454	32.0	32.0	32.0	32.0	32.0	32.0	16.0	240	\$78.00	\$18,720
MATERIAL TESTING AND SAMPLING (Garreth Sakit - Ninyo & Moore)	\$28,729	\$3,551	\$25,178										\$15,000
Landscape Inspection Support (Anna Mendiola) - As needed	\$8,960		\$8,960		16.0	16.0	8.0	8.0	8.0	8.0	64	\$147.00	\$9,408
Office Engineer	\$9,600		\$9,600		100.0	100.0	100.0	100.0	100.0	80.0	660	\$124.00	\$81,840
SURVEYOR (Tom Decker - FES) - As Needed	\$2,131	\$34	\$2,067								0		\$0
Other Direct Costs	\$313,000	\$130,765	\$182,235	382	498	498	490	490	490	212	3,436		\$535,510

Total Additional Fees:
 Total CM \$353,274.90
 \$666,274.90
 9.34%

AGREEMENT NO. 20-17

Note:
 1 - Schedule of Rate is based on one 8-hour shift



AGENDA REPORT

DATE:	APRIL 6, 2020	FILE I.D.:	GRT225
SECTION:	AGREEMENTS	DEPT.:	HUMAN SVCS./PUBLIC WORKS
ITEM NO.:	2	PREPARER:	A. COLUNGA

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 20-22 WITH THE STATE OF CALIFORNIA NATURAL RESOURCES AGENCY, DEPARTMENT OF PARKS AND RECREATION ACCEPTING STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM GRANT FUNDS TO DEVELOP REEDER RANCH PARK

CONSIDER AUTHORIZING CITY MANAGER EDWARD C. STARR TO EXECUTE AGREEMENT NO. 20-22 ON BEHALF OF THE CITY

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 20-22 with the State of California Natural Resources Agency, Department of Parks and Recreation accepting Statewide Park Development and Community Revitalization Program grant funds to develop Reeder Ranch Park.

BACKGROUND: The California Department of Parks and Recreation released the request for applications for the statewide park development and community revitalization program (SPP) grant funds in January 2019. SPP is funded by proposition 68 which was approved by state voters in the June 2018 election. The SPP competitive grants will create new parks and new recreation opportunities in critically underserved communities across California. The City Council authorized the adoption of Resolution No. 19-3239 authorizing the application for Statewide Park Development and Community Revitalization Program grant funds to develop Reeder Ranch Park on June 3, 2019.

Increasing the City's park acreage will have multiple long-term benefits including encouraging physical activity, reducing chronic diseases, improving mental health, fostering community connections, and supporting community resilience to climate change and pollution, according to the California Healthy Places index.

The City staff developed this park plan with the community. The City conducted six community outreach events; residents suggested a playground, a walking trail, fitness stations, and picnic areas. An outdoor stage for movies in the park or summer concerts and a recreation center to anchor other activities in the park were also requested.

The park will also provide a location for educational teaching opportunities for two local elementary schools due to its proximity to the George C. and Hazel H. Reeder Citrus Ranch Farmhouse located next door. Reeder Ranch is culturally significant and the last remaining citrus ranch in the City.

The SPP grant activities may include but are not limited to the following:

- Develop a schematic concept level design
- CEQA for the construction scope
- Construction documents
- Bid for construction

- Construction of Reeder Ranch Park
- Reeder Ranch Park Grand Opening on or before April 30, 2022
- Thirty years of operation and maintenance for public use

FISCAL IMPACT: Should the City Council approve proposed Agreement No. 20-22, the California Department of Parks and Recreation would grant the City \$5,137,000 for the development of Reeder Ranch Park. The grant performance period is July 1, 2018 to June 30, 2022 (4 years), and the contract period is July 1, 2018 to June 30, 2048 (30 years).

RECOMMENDATION: Staff recommends the City Council take the following actions:

1. Approve Agreement No. 20-22 with the State of California Natural Resources Agency, Department of Parks and Recreation accepting Statewide Park Development and Community Revitalization Program grant funds to develop Reeder Ranch Park.
2. Authorize City Manager Edward C. Starr to sign Agreement No. 20-22 on behalf of the City.

State of California - Natural Resources Agency
Department of Parks and Recreation
GRANT CONTRACT
2018 Parks Bond Act
Statewide Park Development and Community Revitalization

GRANTEE City of Montclair

GRANT PERFORMANCE PERIOD is from July 01, 2018 through June 30, 2022

CONTRACT PERFORMANCE PERIOD is from July 01, 2018 through June 30, 2048

PROJECT TITLE REEDER RANCH PARK DEVELOPMENT PROJECT NUMBER SW-36-005

The GRANTEE agrees to the terms and conditions of this contract, and the State of California, acting through its Director of Parks and Recreation, pursuant to the State of California, agrees to fund the total State grant amount indicated below.

The GRANTEE agrees to complete the PROJECT SCOPE(s) as defined in the Development PROJECT SCOPE / Cost Estimate Form or Acquisition documentation for the Application(s) filed with the State of California.

The General and Special Provisions attached are made a part of and incorporated into the Contract.

Total State Grant not to exceed \$5,137,000.00

City of Montclair

 Grantee

STATE OF CALIFORNIA
 DEPARTMENT OF PARKS AND RECREATION

By _____

 Typed or printed name of Authorized Representative

By _____

 Typed or printed name of Authorized Representative

 Signature of Authorized Representative

 Signature of Authorized Representative

Address _____

Title City Manger

Title _____

Date _____

Date _____

CERTIFICATION OF FUNDING

CONTRACT NO C9801006	AMENDMENT NO	FISCAL SUPPLIER I.D. 0000029820			PROJECT NO. SW-36-005
AMOUNT ENCUMBERED BY THIS DOCUMENT \$5,137,000.00		FUND. Drought, Water, Cln Air, Cstl Protc, Outdoor Fund			
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT		ITEM 3790-101-6088	CHAPTER 29	STATUTE 18	FISCAL YEAR 2019/20
TOTAL AMOUNT ENCUMBERED TO DATE \$ 5,137,000.00		INDEX. 1091	OBJ. EXPEND 702	ACTIVITY CODE 69800	PROJECT / WORK PHASE
T.B.A. NO.	I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance.				
B.R. NO.	ACCOUNTING OFFICER'S SIGNATURE				DATE.

I. RECITALS

This CONTRACT is entered into between the California Department of Parks and Recreation (hereinafter referred to as "GRANTOR," "DEPARTMENT" or "STATE") and City of Montclair (hereinafter referred to as "GRANTEE").

The DEPARTMENT hereby grants to GRANTEE a sum (also referred to as "GRANT MONIES") not to exceed \$5,137,000, subject to the terms and conditions of this CONTRACT and the 2018/19 California State Budget, Chapter 29, statutes of 2018, Item number – 3790-101-6088 (appropriation chapter and budget item number hereinafter referred to as "2018 Parks Bond Act, Statewide Park Development and Community Revitalization GRANT"). These funds shall be used for completion of the GRANT SCOPE(S).

The Grant Performance Period is from July 01, 2018 to June 30, 2022.

II. GENERAL PROVISIONS

A. Definitions

As used in this CONTRACT, the following words shall have the following meanings:

1. The term "ACT" means the California Drought, Water, Parks Climate, Coastal Protection, and Outdoor Access for All Act of 2018, as referred to in section I of this CONTRACT.
2. The term "APPLICATION" means the individual project APPLICATION packet for a project pursuant to the enabling legislation and/or grant program process guide requirements.
3. The term "DEPARTMENT" or "STATE" means the California Department of Parks and Recreation.
4. The term "DEVELOPMENT" means capital improvements to real property by means of, but not limited to, construction, expansion, and/or renovation, of permanent or fixed features of the property.
5. The term "GRANTEE" means the party described as the GRANTEE in Section I of this CONTRACT.
6. The term "GRANT SCOPE" means the items listed in the GRANT SCOPE/Cost Estimate Form found in each of the APPLICATIONS submitted pursuant to this grant.
7. The term "GUIDE" means (1) the document identified as the "Grant Administration Guide for California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 Competitive Grant Programs Capital

Improvement Projects” and (2) The Application Guide that established the competitive procedures and policies for the selection of projects.

B. Project Execution

1. Subject to the availability of GRANT MONIES, the STATE hereby grants to the GRANTEE a sum of money not to exceed the amount stated in Section I of this CONTRACT, in consideration of, and on condition that, the sum be expended in carrying out the purposes as set forth in the scope described in the enabling legislation and referenced in the APPLICATION, Section I of this CONTRACT, and under the terms and conditions set forth in this CONTRACT.

The GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the GRANT SCOPE(S).

The GRANTEE agrees to submit any change or alteration from the original GRANT SCOPE(S) in writing to the STATE for prior approval. This applies to any and all changes that occur after STATE has approved the APPLICATION. Changes in the GRANT SCOPE(S) must be approved in writing by the STATE.

2. The GRANTEE shall complete the GRANT SCOPE(S) in accordance with the time of the Performance Period set forth in Section I of this CONTRACT, and under the terms and conditions of this CONTRACT.

To maintain the integrity of the competitive grant program, the GRANTEE agrees that any other project changes or alterations which deviate from the intent of the project selection criteria provided by the GRANTEE in the original competitive APPLICATION must be submitted in writing to the STATE for prior approval.

3. The GRANTEE shall comply with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., Title 14, California Code of Regulations, Section 15000 et seq.).
4. The GRANTEE shall comply with all applicable current laws and regulations affecting DEVELOPMENT projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities, including but not limited to the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the California Unruh Act (California Civil Code §51 et seq.).

C. Project Guide

1. GRANTEE agrees to abide by the GUIDES.
2. GRANTEE acknowledges that STATE may make reasonable changes to its procedures as set forth in the GUIDE. If STATE makes any changes to its procedures and guidelines, STATE agrees to notify GRANTEE within a reasonable time.

D. Project Administration

1. If GRANT MONIES are advanced for DEVELOPMENT projects, the advanced funds shall be placed in an interest bearing account until expended. Interest earned on the advanced funds shall be used on the project as approved by the STATE. If grant monies are advanced and not expended, the unused portion of the grant and any interest earned shall be returned to the STATE within 60 days after project completion or end of the Grant Performance Period, whichever is earlier.
2. The GRANTEE shall submit written project status reports within 30 calendar days after the STATE has made such a request. In any event, the GRANTEE shall provide the STATE a report showing total final project expenditures within 60 days of project completion or the end of the grant performance period, whichever is earlier. The Grant Performance Period is identified in Section I of this CONTRACT.
3. The GRANTEE shall make property or facilities acquired and/or developed pursuant to this contract available for inspection upon request by the STATE.

E. Project Termination

1. Project Termination refers to the non-completion of a GRANT SCOPE. Any grant funds that have not been expended by the GRANTEE shall revert to the STATE.
2. The GRANTEE may unilaterally rescind this CONTRACT at any time prior to the commencement of the project. The commencement of the project means the date of the letter notifying GRANTEE of the award or when the funds are appropriated, whichever is later. After project commencement, this CONTRACT may be rescinded, modified or amended only by mutual agreement in writing between the GRANTEE and the STATE, unless the provisions of this CONTRACT provide that mutual agreement is not required.
3. Failure by the GRANTEE to comply with the terms of the (a) GUIDE, (b) any legislation applicable to the ACT, (c) this CONTRACT as well as any other grant contracts, specified or general, that GRANTEE has entered into with STATE, may be cause for suspension of all obligations of the STATE unless the STATE determines that such failure was due to no fault of the GRANTEE. In such case, STATE may reimburse GRANTEE for eligible costs properly incurred in performance of this CONTRACT despite non-performance of the GRANTEE. To qualify for such reimbursement, GRANTEE agrees to mitigate its losses to the best of its ability.
4. Any breach of any term, provision, obligation or requirement of this CONTRACT by the GRANTEE shall be a default of this CONTRACT. In the case of any default by GRANTEE, STATE shall be entitled to all remedies available under law and equity, including but not limited to: a) Specific Performance; b) Return of all GRANT MONIES; c) Payment to the STATE of the fair market value of the project property or the actual sales price, whichever is higher; and d) Payment to the STATE of the costs of enforcement of this CONTRACT, including but not limited to court and arbitration costs, fees, expenses of litigation, and reasonable attorney fees.

5. The GRANTEE and the STATE agree that if the GRANT SCOPE includes DEVELOPMENT, final payment may not be made until the work described in the GRANT SCOPE is complete and the GRANT PROJECT is open to the public.

F. Budget Contingency Clause

If funding for any fiscal year is reduced or deleted by the budget act for purposes of this program, the STATE shall have the option to either cancel this contract with no liability occurring to the STATE, or offer a CONTRACT amendment to GRANTEE to reflect the reduced grant amount. This Paragraph shall not require the mutual agreement as addressed in Paragraph E, provision 2, of this CONTRACT.

G. Hold Harmless

1. The GRANTEE shall waive all claims and recourse against the STATE including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this CONTRACT except claims arising from the concurrent or sole negligence of the STATE, its officers, agents, and employees.
2. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the ACQUISITION, DEVELOPMENT, construction, operation or maintenance of the property described as the project which claims, demands or causes of action arise under California Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of the STATE, its officers, agents, or employees.
3. The GRANTEE agrees that in the event the STATE is named as codefendant under the provisions of California Government Code Section 895 et seq., the GRANTEE shall notify the STATE of such fact and shall represent the STATE in the legal action unless the STATE undertakes to represent itself as codefendant in such legal action in which event the GRANTEE agrees to pay the STATE's litigation costs, expenses, and reasonable attorney fees.
4. The GRANTEE and the STATE agree that in the event of judgment entered against the STATE and the GRANTEE because of the concurrent negligence of the STATE and the GRANTEE, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.
5. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the GRANTEE has certified. The GRANTEE acknowledges that it is solely responsible for compliance with items to which it has certified.

H. Financial Records

1. The GRANTEE shall maintain satisfactory financial accounts, documents, including loan documents, and all other records for the project and to make them available to the STATE for auditing at reasonable times. The GRANTEE also agrees to retain such financial accounts, documents and records for five years following project termination or issuance of final payment, whichever is later.
2. The GRANTEE shall keep such records as the STATE shall prescribe, including records which fully disclose (a) the disposition of the proceeds of STATE funding assistance, (b) the total cost of the project in connection with such assistance that is given or used, (c) the amount and nature of that portion of the project cost supplied by other sources, and (d) any other such records that will facilitate an effective audit.
3. The GRANTEE agrees that the STATE shall have the right to inspect and make copies of any books, records or reports pertaining to this contract or matters related thereto during regular office hours. The GRANTEE shall maintain and make available for inspection by the STATE accurate records of all of its costs, disbursements and receipts with respect to its activities under this CONTRACT. Such accounts, documents, and records shall be retained by the GRANTEE for at least five years following project termination or issuance of final payment, whichever is later.
4. The GRANTEE shall use a generally accepted accounting system.

I. Use of Facilities

1. The GRANTEE agrees that the GRANTEE shall operate and maintain the property acquired or developed with the GRANT MONIES, for the duration of the Contract Performance Period.
2. The GRANTEE agrees that, during the Contract Performance Period, the GRANTEE shall use the property acquired or developed with GRANT MONIES under this contract only for the purposes of this grant and no other use, sale, or other disposition or change of the use of the property to one not consistent with its purpose shall be permitted except as authorized by the STATE and the property shall be replaced with property of equivalent value and usefulness as determined by the STATE.
3. The property acquired or developed may be transferred to another entity if the successor entity assumes the obligations imposed under this CONTRACT and with the approval of STATE.
4. Any real Property (including any portion of it or any interest in it) may not be used as security for any debt or mitigation, without the written approval of the STATE provided that such approval shall not be unreasonably withheld as long as the

purposes for which the Grant was awarded are maintained. Any such permission that is granted does not make the STATE a guarantor or a surety for any debt or mitigation, nor does it waive the STATE'S rights to enforce performance under the Grant CONTRACT.

5. All real property, or rights thereto, acquired with GRANT MONIES shall be subject to an appropriate form of restrictive title, rights, or covenants approved by the STATE. If the project property is taken by use of eminent domain, GRANTEE shall reimburse STATE an amount at least equal to the amount of GRANT MONIES received from STATE or the pro-rated full market value of the real property, including improvements, at the time of sale, whichever is higher.
6. If eminent domain proceedings are initiated against GRANTEE, GRANTEE shall notify STATE within 10 days of receiving the complaint.

J. Nondiscrimination

1. The GRANTEE shall not discriminate against any person on the basis of sex, race, color, national origin, age, religion, ancestry, sexual orientation, or disability in the use of any property or facility developed pursuant to this contract.
2. The GRANTEE shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.
3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this project contract or under provisions of the enabling legislation and/or grant program.

K. Severability

If any provision of this CONTRACT or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the CONTRACT which can be given effect without the invalid provision or application, and to this end the provisions of this CONTRACT are severable.

L. Liability

1. STATE assumes no responsibility for assuring the safety or standards of construction, site improvements or programs related to the GRANT SCOPE. The STATE'S rights under this CONTRACT to review, inspect and approve the GRANT SCOPE and any final plans of implementation shall not give rise to any warranty or representation that the GRANT SCOPE and any plans or improvements are free from hazards or defects.
2. GRANTEE will secure adequate liability insurance, performance bond, and/or other security necessary to protect the GRANTEE's and STATE'S interest

against poor workmanship, fraud, or other potential loss associated with completion of the grant project.

M. Assignability

Without the written consent of the STATE, the GRANTEE'S interest in and responsibilities under this CONTRACT shall not be assignable by the GRANTEE either in whole or in part.

N. Use of Grant Monies

GRANTEE shall not use any grant funds (including any portion thereof) for the purpose of making any leverage loan, pledge, promissory note or similar financial device or transaction, without: 1) the prior written approval of the STATE; and 2) any financial or legal interests created by any such leverage loan, pledge, promissory note or similar financial device or transaction in the project property shall be completely subordinated to this CONTRACT through a Subordination Agreement provided and approved by the STATE, signed by all parties involved in the transaction, and recorded in the County Records against the fee title of the project property.

O. Section Headings

The headings and captions of the various sections of this CONTRACT have been inserted only for the purpose of convenience and are not a part of this CONTRACT and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this CONTRACT.

P. Waiver

Any failure by a party to enforce its rights under this CONTRACT, in the event of a breach, shall *not* be construed as a waiver of said rights; and the waiver of any breach under this CONTRACT shall *not* be construed as a waiver of any subsequent breach.

City of Montclair
GRANTEE

By: _____
Signature of Authorized Representative

Title: _____

Date: _____

STATE OF CALIFORNIA

DEPARTMENT OF PARKS AND RECREATION

By: _____
Signature of Authorized Representative

Title: _____

Date: _____



CITY COUNCIL AGENDA REPORT

DATE:	APRIL 6, 2020	FILE I.D.:	STA805C
SECTION:	CONSENT - AGREEMENTS	DEPT.:	PUBLIC WORKS
ITEM NO.:	3	PREPARER:	N. CASTILLO
SUBJECT:	CONSIDER APPROVAL OF AGREEMENT NO. 20-23 WITH BIGGS CARDOSA ASSOCIATES, INC., FOR DESIGN SERVICES ASSOCIATED WITH THE CENTRAL AVENUE BRIDGE PROJECT		

REASON FOR CONSIDERATION: The Central Avenue Bridge exists as a four-lane overcrossing of the Union Pacific Railroad. The overpass was constructed in 1967. Although the overpass was seismically retrofitted over 20 years ago, it was based on older design and seismic methodology. A new seismic evaluation was performed and deficiencies were found that make the overpass functionally obsolete. The City of Montclair applied and was successful in obtaining a Highway Bridge Program grant to repair the overpass. The existing overpass will be widened and result in a six-lane overcrossing. The overpass will pave the way for redevelopment of the south end of the City. Central Avenue is the gateway to the City and its repair is vital to the overall plan for the city's future.

BACKGROUND: On September 5, 2019, six design proposals were received for the project. The project, being federally funded, has a very specific process for the awarding of the design contract. The proposals were reviewed and scored on their merit, and the three highest ranking consultant proposals were invited to an interview. A three-person panel interviewed and made a recommendation to conduct contract negotiations with Biggs Cardosa Associates, Inc. A series of negotiation meetings were held to ensure the City was receiving the best value. The project design proposal is for \$3,352,355.

The design phase should be completed in calendar year 2022. At that point, the City will seek additional federal funds and grants to move the construction phase forward. Construction could start in calendar year 2023. Construction duration is expected to be a little over 2 years. The new bridge would then be operational in calendar year 2025.

FISCAL IMPACT: Since the Central Avenue Bridge is of regional importance, the City of Montclair has been highly successful in securing grant funds from federal sources. The project was allocated \$2,814,317 of re-purposed earmark federal funds. Additionally, after the contract negotiations, the City coordinated with Caltrans Local Assistance office to obtain \$1,374,477 in post-obligation supplemental federal funds. The local match of \$538,039 will come from available SB1 funds.

RECOMMENDATION: Staff recommends that the City Council approve Agreement No. 20-23 with Biggs Cardosa Associates, Inc., for design services associated with the Central Avenue Bridge Project.

City of Montclair Professional Services Agreement

Federal Project No. 5326(018)

ARTICLE I INTRODUCTION

This AGREEMENT is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, LOCAL AGENCY:

The name of the "CONSULTANT" is as follows:
Biggs Cardosa Associates, Inc.

Incorporated in the State of state of California
The Project Manager for the "CONSULTANT" will be Eric Pheifer
The name of the "LOCAL AGENCY" is as follows:
City of Montclair

The Contract Administrator for the City of Montclair will be Noel Castillo, P.E. Public Works
Director/City Engineer

- B. The work to be performed under this AGREEMENT is described in Article III Statement of Work and the approved CONSULTANT's Cost Proposal dated 3/20/2020. The approved CONSULTANT's Cost Proposal is attached hereto Exhibit B and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- C. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless LOCAL AGENCY, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this AGREEMENT on the part of CONSULTANT, except such loss or damage which was caused by the sole negligence, or willful misconduct of LOCAL AGENCY, as determined by a Court of competent jurisdiction. The provisions of this section shall survive termination or suspension of this AGREEMENT.
- D. CONSULTANT in the performance of this AGREEMENT, shall act in an independent capacity. It is understood and agreed that CONSULTANT (including CONSULTANT's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto. CONSULTANT's assigned personnel shall not be entitled to any benefits payable to employees of City.
- E. LOCAL AGENCY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of the AGREEMENT, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.

- F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.

- G. Except as expressly authorized herein, CONSULTANT's obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the Local AGENCY. However, claims for money due or which become due to CONSULTANT from City under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the LOCAL AGENCY.
- H. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- I. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

(Option 1 - Use paragraphs A & B below for standard AGREEMENTs)

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

ARTICLE III STATEMENT OF WORK

Preliminary engineering, right of way engineering, environmental CEQA/NEPA technical studies, utility coordination and complete federal PS&E package to rehabilitate and widen the existing bridge spanning over UPRR tracks and roadway approaches on both ends, and independent bridge structure review (per RFP dated July 29, 2019 attachment No. 1). The services have been refined and described in the Scope of Services attached hereto as Exhibit "A."

ARTICLE IV PERFORMANCE PERIOD

Time of Performance is from April 6, 2020 to December 22, 2023.

- A. This AGREEMENT shall go into effect on April 6, 2020, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on December 22, 2023, unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY'S approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I" of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.
- B. The indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. CONSULTANT'S agreement to the extension of the 1-year applicable period shall not be a condition or qualification to be considered for the work or AGREEMENT award.
- C. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$285,139.25. The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- D. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- E. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- F. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT'S fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT.
- G. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- H. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT'S work. Invoices shall be mailed to LOCAL AGENCY'S Contract Administrator at the following address:

City of Montclair, Noel Castillo, P.E. Public Works Director / City Engineer
5111 Benito Street Montclair, CA 91763

- I. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$3,352,355.
- J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

ARTICLE VI TERMINATION

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

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

ARTICLE VIII RETENTION OF RECORD/AUDITS

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

ARTICLE IX AUDIT REVIEW PROCEDURES

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

recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

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

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

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

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

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

2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records
 1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the

Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.

- c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
 4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
 5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
 6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
 - F. Penalty
 1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.

3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

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

ARTICLE XIII CONFLICT OF INTEREST

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

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

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

(Include this article in all AGREEMENTs where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the AGREEMENT; delete this article and re-number the subsequent articles.)

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

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

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. 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:
 - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - 3. Does not have a proposed debarment pending; and

4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This AGREEMENT is subject to 49 CFR Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”. CONSULTANTs who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.
- B. The goal for DBE participation for this AGREEMENT is 7.9%. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10-O1: Consultant Proposal DBE Commitment](#) , or in [Exhibit 10-O2: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT (See Exhibit C). If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.
- D. DBEs and other small businesses, as defined in 49 CFR Part 26 are encouraged to participate in the performance of AGREEMENTs financed in whole or in part with federal funds. The LOCAL AGENCY, CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the LOCAL AGENCY deems appropriate, which may include, but is not limited to:
 - (1) Withholding monthly progress payments;
 - (2) Assessing sanctions;
 - (3) Liquidated damages; and/or
 - (4) Disqualifying the contractor from future bidding as non-responsible
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR §26.53(f). Prior to requesting LOCAL AGENCY consent for the

termination, CONSULTANT must meet the procedural requirements specified in 49 CFR §26.53(f). If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

- F. Consultant shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of Consultant) pursuant to prior written authorization of the LOCAL AGENCY's Contract Administrator.
- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.
- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. Upon completion of the AGREEMENT, a summary of these records shall be prepared and submitted on the form entitled, [Exhibit 17-F: Final Report-Utilization of Disadvantaged Business Enterprise \(DBE\) First-Tier Subconsultants](#), certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.
- L. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.

- M. [After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to \[business.support.unit@dot.ca.gov\]\(mailto:business.support.unit@dot.ca.gov\) with a copy to the Agency.](#)
- N. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for CONSULTANT with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.
- B. The Certificate of Insurance will provide:
 - 1. That the insurer will not cancel the insured’s coverage without thirty (30) calendar days prior written notice to LOCAL AGENCY.
 - 2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this AGREEMENT are concerned.
 - 3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.
- C. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) calendar days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.
 - 1. Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant’s services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney’s fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any entity or individual that consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.
 - 2. Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials, and agents ("Indemnified Parties") from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees),

where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant. Said indemnification shall include any claim that Consultant, or Consultant's employees or agents, are considered to be employees of the City or are entitled to any employee benefits from City, including but not limited to those available under Public Employees Retirement Law.

3. General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subconsultant or other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

4. INSURANCE

a. Consultant shall neither commence work under this Agreement until it has obtained all insurance required hereunder in a company or companies acceptable to City nor shall Consultant allow any subcontractor to commence work on a subcontract until all insurance required of the subcontractor has been obtained. Consultant shall, at all times during the term of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum limits as indicated below and issued by insurers with A.M. Best ratings of no less than A-: VI:

b.

Commercial general liability at least as broad as ISO CG 0001 (per occurrence)	1,000,000
Commercial general liability at least as broad as ISO CG 0001 (general aggregate)	2,000,000
Commercial auto liability at least as broad as ISO CA 0001 (per accident)	1,000,000
Professional Liability (per claim and aggregate)	1,000,000
Worker's compensation	

- (a) All insurance required by this section shall apply on a primary basis. Consultant agrees that it will not cancel or reduce said insurance coverage. Consultant agrees that if it does not keep the aforesaid insurance in full force and effect City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Consultant's expense, the premium thereon.
- (b) Auto liability insurance shall cover owned, nonowned and hired autos. If Consultant owns no vehicles, auto liability coverage may be provided by means of a nonowned and hired auto endorsement to the general liability policy.
- (c) At all times during the term of this Agreement, Consultant shall maintain on file with City a certificate of insurance, in a form acceptable to City showing that the aforesaid policies are in effect in the required amounts. The general liability and automobile policies shall contain or be endorsed to contain a provision including the Indemnified Parties as additional insureds. Consultant shall promptly file with City such certificate or certificates and endorsements if applicable. Coverage for the additional insureds shall apply to the fullest extent permitted by law. Additional Insured Endorsements shall not:

i. Exclude "Contractual Liability"

- ii. Restrict coverage to the "Sole" liability of Consultant
- iii. Exclude "Third-Party-Over Actions"
- iv. Contain any other exclusion contrary to the Contract

No policy required by this section shall prohibit Consultant from waiving any right of recovery prior to loss. Consultant hereby waives such right with regard to the Indemnified Parties.

All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage.

In accordance with the provisions of California Labor Code, Section 3700, every employer shall secure the payment of compensation to his employees. Consultant shall, prior to commencing work, sign and file with City a certification as follows:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Agreement."

- c. General Insurance Requirements: All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer, insured and all subcontractors waive the right of subrogation against City and City's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by City; and (3) they cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to City by certified mail. Consultant shall furnish City with copies of all such policies. Consultant may effect for its own account insurance not required under this Agreement.

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY’s Contract Administrator.
- C. There shall be no change in CONSULTANT’s Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY’s Contract Administrator.

ARTICLE XXII CONTINGENT FEE

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

ARTICLE XXIII DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY’s Contract Administrator and Noel Castillo, P.E. Public Works Director / City Engineer, who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) calendar days after completion of all work under the AGREEMENT, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

ARTICLE XXIV INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.

- B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

ARTICLE XXVI OWNERSHIP OF DATA

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

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY’S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY’s construction contractor relating to work performed by CONSULTANT’s personnel, and additional information or assistance from CONSULTANT’s personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY’S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT’s personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT’s personnel services under this AGREEMENT.

- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

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

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

ARTICLE XXX EVALUATION OF CONSULTANT

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

ARTICLE XXXI RETENTION OF FUNDS

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

ARTICLE XXXII NOTIFICATION

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

CONSULTANT:

Biggs Cardosa Associates, Inc.
Eric Pheifer, Project Manager
500 S. Main Street, Ste. 400
Orange, CA 92868

LOCAL AGENCY:

City of Montclair
Noel Castillo, Contract Administrator
5111 Benito Street
Montclair, CA 91763

ARTICLE XXXIII CONTRACT

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

ARTICLE XXXIV SIGNATURES

City of Montclair

Biggs Cardoso Associates, Inc.

By: _____
Javier John Dutrey, Mayor

By: _____
Eric Pheifer, Principal

Attest:

By: _____
Andrea Phillips, City Clerk

Approved as to Form:

By: _____
Diane E. Robbins, City Attorney

Exhibit A
Scope of Services

Central Avenue over UPRR/Amtrak/Metrolink
Bridge No. 54C0112 | Federal Project No. BRLS – 5326 (018)

SCOPE OF WORK

INTRODUCTION

The City of Montclair intends to widen/reconstruct the existing grade-separated crossing of Central Avenue, spanning over the Union Pacific Railroad (UPRR), State Street that runs parallel to the railroad on the south side, and an unnamed horseshoe access road on the north side of the UPRR tracks.

The Scope of Work generally includes preliminary engineering, right-of-way engineering, environmental CEQA/NEPA technical studies, utility coordination, and complete federal PS&E package to rehabilitate and widen the existing bridge spanning over UPRR tracks and roadway approaches on both ends, independent bridge structure review, engineering support during bid process/construction contract award, and design support during construction.

This Scope of Work has been developed based upon the scope provided in the Request for Proposals (RFP) and experience on similar projects, bringing the best practices forth to the Central Avenue over UPRR/Amtrak/Metrolink project (referred to herein as the "Project"). Any references to "Consultant" shall mean Biggs Cardosa Associates and its subconsultants. References to "City" shall mean the City of Montclair.

**Central Avenue over UPRR/Amtrak/Metrolink
 Bridge No. 54C0112 | Federal Project No. BRLS – 5326 (018)**

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Scope of Work

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PHASE I – PRELIMINARY/RIGHT-OF-WAY ENGINEERING AND ENVIRONMENTAL DOCUMENTATION PHASE

1. PROJECT MANAGEMENT

This task covers the day-to-day project management for the Project including invoicing, progress reporting, and schedule updates. This task also includes the development of the Work Plan and Quality Control Plan.

1.1. Administration

The Consultant will establish and apply internal accounting methods and procedures acceptable to the City for documenting and monitoring contract costs. A resource-loaded schedule will be used to establish the baseline project controls for the Project. Budget performance will be tracked by comparing actual to planned expenditures.

The Consultant will submit a consolidated monthly invoice in a format acceptable to the City broken down in a manner consistent with the Work Plan. The Consultant shall include, with the monthly invoice, a progress report that reflects the work completed within the invoice period.

The Consultant will provide the City with copies of written correspondence between the Consultant and third parties pertaining specifically to the Project.

The Consultant will maintain project files in accordance with its Work Plan.

Assumptions	Up to 36 months of invoicing and progress reporting are included in this scope.
Deliverables	<ul style="list-style-type: none"> ▪ Baseline Project Controls ▪ Copies of written correspondence ▪ Monthly invoices and progress reports

1.2. Coordination and Meetings

The Consultant’s Project Manager will take the lead in the coordination of all project activities, including coordination with other agencies, submission of deliverables, obtaining permits, and similar coordination efforts consistent with the Scope of Work.

The Consultant shall conduct a project kick-off meeting with City Staff. The Consultant will present the Work Plan, introduce the project team, request information, and conduct other similar activities. The Consultant shall prepare and distribute kick-off meeting minutes.

The Consultant shall schedule, attend, and conduct monthly Project Development Team (PDT) meetings throughout the work. The Consultant shall prepare and distribute PDT meeting agenda and minutes to all PDT members.

The Consultant shall attend other meetings as required (e.g. SBCTA, UPRR coordination, utility companies, other agencies) to perform coordination and to execute the Scope of Work.

Assumptions	This Scope of Work includes up to twenty-four (24) PDT meetings. Utility meetings, UPRR coordination meetings, and other stakeholder meetings are included in other tasks throughout this Scope of Work.
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Scope of Work

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**Central Avenue over UPRR/Amtrak/Metrolink
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Deliverables | Meeting agendas and minutes

1.3. Project Schedule

The Consultant will prepare and periodically update a project schedule with tasks and milestones. The Consultant will break down the schedule by logical tasks consistent with the Scope of Work and with enough detail to track project progress. Both a baseline schedule and tracking updates are required. The schedule must reflect realistic estimates of review periods by other agencies for tasks, such as reports, plans, permits, and coordination.

Assumptions	Project Schedules will be in Microsoft Project or Primavera P6 format.
Deliverables	<ul style="list-style-type: none"> ▪ Baseline Project Schedule ▪ Project Schedule Tracking Updates

1.4. Work Plan

A comprehensive Work Plan will be prepared to communicate this Scope of Work and any technical requirements to project participants. The Work Plan shall identify the procedures and technical requirements that are to be followed in developing project deliverables. The Work Plan shall also describe the responsibilities of each participant in the project. The following items shall be in the Work Plan:

- Scope of Work
- Log of Deliverables: Consultant shall prepare a list of deliverables indicating the applicable Scope of Work section, dates submitted/approved, and file locations conforming to the Project’s electronic filing system.
- Baseline Project Schedule: A Critical Path Method (CPM) schedule shall be prepared by the Consultant and shall be updated on a monthly basis. This schedule shall be included in the Work Plan and will serve as the baseline schedule for the Project.
- Project Electronic Filing System: Project files shall be indexed in accordance with Caltrans’ Project Development Uniform File System.
- CADD Procedures: Plans shall be prepared in AutoCAD .dwg format. The Work Plan will describe any required City-specified CADD procedures; otherwise, Caltrans format will apply.
- Invoicing Instructions: Consultant monthly invoices shall be reported by task and shall be accompanied by a progress report. The City shall supply any specific invoicing requirements for inclusion in the Work Plan.
- Design Standards
 - Consultant shall prepare a list of applicable design standards.
 - Roadway design shall be in accordance with the American Association of State Highway Transportation Officials’ (AASHTO) *A Policy on Geometric Design of Highways and Streets*, latest edition; City Standard Drawings, and City Master Plan of Streets, City Circulation Element; and City standard practices.
 - Bridge design shall be in accordance with the AASHTO LRFD Bridge Design Specifications with California Amendments and other Caltrans bridge design standards.
 - Specifications shall be in accordance with the City standard bid documents and the American Public Works Association “Greenbook” (Standard Specifications for American

Scope of Work

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Central Avenue over UPRR/Amtrak/Metrolink
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Public Works Construction), latest edition. Structures (i.e. bridge and retaining walls) will be in accordance with Caltrans standard specifications, latest edition.

- o All dimensions shall be in English units.

Assumptions	The City will furnish an electronic design file with the City title block and title sheet (24" x 36").
Deliverables	Work Plan

1.5. Quality Assurance and Quality Control

The Consultant will have a Quality Assurance and Quality Control Plan in effect for the duration of the Scope of Work. A Quality Management System (QMS) Manual will establish a process whereby all deliverables are checked prior to any formal submission and all job-related correspondence and memoranda are appropriately filed. The intent of the QMS Manual is to monitor quality to ensure that reports, plans, studies, estimates, and other deliverables submitted are complete, accurate, checked, conform to Caltrans and City standards, and meet professional engineering practice standards in effect at the time of execution. An appointed Quality Assurance Officer will monitor and review project activities and deliverable schedules.

Assumptions	N/A
Deliverables	Quality Management System Manual

2. STATE AND FEDERAL FUNDING ASSISTANCE

The Consultant shall provide supporting data and recommendations to the City-retained Program Management Consultant to assist with resolving funding issues. The Consultant and the Program Management Consultant will work with Caltrans to change the project funding from a Bridge Rehabilitation and Widening Project to a Bridge Replacement and Widening Project. The Consultant shall conduct coordination meetings with City staff, the City's Program Management Consultant, Caltrans, and FHWA. UPRR and other entities shall be included as necessary to resolve the funding issues.

The Consultant will revise/update the Life Cycle Cost Analysis (dated April 26, 2019) to address Caltrans comments (dated July 3, 2019) in an effort to obtain Caltrans' approval to replace and widen the existing bridge.

Assumptions	<ul style="list-style-type: none"> ▪ Up to five (5) meetings with City staff, Caltrans, and other stakeholders as necessary to resolve the funding issues are included in this scope. ▪ One (1) round of additional Caltrans comments on the Life Cycle Cost Analysis are anticipated.
Deliverables	<ul style="list-style-type: none"> ▪ Meeting agendas and minutes ▪ Prepare the required documents to assist the City's Program Management Consultant ▪ Life Cycle Cost Analysis

**Central Avenue over UPRR/Amtrak/Metrolink
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3. PRELIMINARY/RIGHT-OF-WAY ENGINEERING

3.1. Surveys and Base Mapping

The Consultant shall perform design surveys to conform to the Caltrans Surveys Manual. The Consultant shall perform design survey for the Central Avenue Bridge at UPRR tracks to the current Caltrans-required accuracy for contours to perform the design, establish the limits of the new Right-of-Way (ROW) Limits, and locate all existing utilities, their prior rights in accordance with the Caltrans Local Assistance Procedures Manual (LAPM) Chapter 14 and the future location of relocated utilities. The Consultant will survey the top of rail within the UPRR ROW at 100-foot intervals for 1000 feet in either direction from the Central Avenue Bridge, which will require UPRR Contractor’s Flagmen for safety. As an alternative to minimize the use of Flagmen, High Definition Scanning capabilities to capture the existing bridge soffit and the rail can be utilized. The Consultant shall complete all Preliminary ROW Engineering requirements per LAPM and confirm required survey accuracy with Caltrans.

The Consultant shall develop and submit a Survey Work Plan to the City to confirm limits of work prior to commencing the field work, and provide base mapping suitable for design of the Project in the U.S. customary (English) unit and in digital format. Horizontal datum will be NAD 1983-1992, and the vertical datum will be NAVD 1988. The Consultant shall be responsible to verify datum with Caltrans and the City. Surveys are to be in the U.S. customary (English) unit. The horizontal and vertical control shall be English.

3.1.1. Aerial Survey

Softcopy aerotriangulation will be performed from scanned and collected visible planimetric detail within the delineated boundary per the provided photo layout map. Digital Terrain Model (DTM) data, consisting of break lines and mass points will be collected at a density that will be sufficient to create 1-foot contours to meet or exceed industry standards.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ Digital Terrain Model (.dtm) in CADD format ▪ Orthophoto in digital (.tif) format

3.1.2. Utility Notification & Utility Base Mapping

Consultant will initiate the utility company notification process early in the design process and identify potential conflicts. Consultant will maintain a utility agency tracking matrix to indicate the status of communication and add a contact list for substructure and utility owner-operators for the specifications. Consultant will assist the City with utility notification letters consisting of the following:

- Utility Information Request
- Prepare to Relocate Notice/Final Utility Notice Form
- Notice to Relocate

Consultant will perform an existing utility easement investigation (Prior Rights for proposed relocation).

In addition to information provided by the owning utility companies and through research of other record maps, field surveys shall be used to locate utility surface features such as manholes, valves, fire hydrants, poles, risers, etc., which shall be reflected on the plans. Consultant shall prepare preliminary plans, which

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shall include existing utilities (above ground and below ground) identified by location, size, type, and owner, as appropriate.

The Consultant shall conduct existing utility research for all utilities within the Project limits to identify, locate, and accurately lay out all of the underground improvements.

The Consultant shall provide preliminary notification letters to the utilities and request current information. The Consultant shall provide additional notification letters to the utilities and/or call the utilities, as necessary, until a written response is received from the utility. The Consultant is responsible to complete and mail the documents, and to provide the City with a copy. The Consultant shall measure the height of the existing overhead utility lines for traffic signal, safety lighting, and street light clearance.

Assumptions	<ul style="list-style-type: none"> ▪ Letters to be printed on City letterhead and signed by City official for distribution. ▪ All related fees from utility companies are excluded from this scope. ▪ Content is based on readily available record drawings and field surveys. ▪ City to provide utilities contact list.
Deliverables	<ul style="list-style-type: none"> ▪ Utility Contact Matrix ▪ PDF copies of correspondence and data provided in responses to letters ▪ Utility Base Map in CADD format

3.1.3. Traffic Data Collection

The Consultant shall collect traffic counts for intersections and roadway segments. New AM (7-9 AM) and PM (4-6 PM) peak period turning movement counts for a typical weekday (Tuesday to Thursday) will be collected for the study intersections. Consultant will collect 24-hour tube count data for roadway segments to obtain a better understanding of circulation and operational levels within the City, and to help validate the existing baseline conditions from the City's traffic model.

Assumptions	Up to four (4) intersections and roadway segments are included in this scope.
Deliverables	Traffic Counts

3.2. Research of Record Information

The Consultant shall perform all research of agency records, as necessary, to secure the information, clearances, and/or plan review services required to identify, locate, and accurately lay out all of the underground improvements and easements, centerline, ROW, and private property lines.

The Consultant shall perform all research of private development plans adjacent to or affecting the Project site, as necessary, to secure the information, clearances, and/or plan review services required to identify, locate, and accurately lay out all of the underground improvements and easements, centerline, ROW, and private property lines.

The City will provide copies of available pertinent City records, such as survey ties, benchmarks, and street plans, which the City knowingly has in its possession.

Assumptions	<ul style="list-style-type: none"> ▪ City or City's Right-of-Way Consultant shall provide Title Reports necessary to complete the right-of-way/property lines. ▪ Right-of-way base mapping shall be based on record data.
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	<ul style="list-style-type: none"> ▪ Right-of-way acquisition services will be performed by the City's Right-of-Way Consultant.
Deliverables	<ul style="list-style-type: none"> ▪ Right-of-Way Base Map ▪ Right-of-Way Requirements Map and Matrix ▪ Plat maps and legal descriptions for both the permanent and temporary takes.

3.3. Bridge Assessment

Utilizing the bridge as-builts and inspection reports, the Consultant shall evaluate recommended maintenance activities and visit the jobsite to inspect and analyze the structure integrity. The Consultant shall identify any deficiencies / safety concerns and develop a final list of recommended maintenance activities based on the field reviews.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ Bridge Assessment Memorandum

3.4. Preliminary Engineering

The Consultant shall prepare and submit the Basis of Design (BOD) Memorandum to the City for approval prior to the development of geometric alternatives to ensure the City and Consultant are in alignment. Upon approval of the BOD, the Consultant shall develop various viable alternatives and perform alignment studies, including development of horizontal and vertical geometry, typical sections, right-of-way engineering and right-of-way acquisition considerations, and estimated costs. The Consultant will study geology, advance structures, utilities, drainage, traffic capacity, traffic operations, and traffic management.

Assumptions	<ul style="list-style-type: none"> ▪ Alternative Alignment Studies will consist of exhibit(s) similar to Caltrans Geometric Approval Drawings (GADs). ▪ Up to three (3) alternative alignments are included in this scope. ▪ Alignments will be discussed at the PDT meetings and/or summarized in a memo. One selected alternative will be advanced into the PS&E phase.
Deliverables	<ul style="list-style-type: none"> ▪ Basis of Design Memorandum ▪ Alternative Alignment Studies ▪ Rough Order of Magnitude Cost Estimates ▪ ROW Requirements Map

3.5. Value Analysis

Value Analysis (VA) is the preferred method of developing alternatives. VA is the systematic application of recognized analytical techniques to identify the function of a project, identify alternatives, and analyze the alternatives to identify the one that fully meets the function of the Project at the lowest overall cost.

The Consultant will be required to participate in a VA study if the estimated project cost exceeds the \$40 million threshold limit, and it is recommended at this stage.

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Assumptions	It is assumed that the project cost is under the \$40 million threshold, and that no Value Analysis will be required for the project.
Deliverables	N/A

3.6. Structure Alternatives

The Consultant shall conduct a bridge evaluation to assess various structure alternatives for the bridge design and construction requirements of the proposed Caltrans approved bridge rehabilitation project, adhering to Caltrans Bridge Design Specification Manual and Other Design Standards. Upon Caltrans approval to replace the bridge, the Consultant shall prepare exhibits and cost estimates for the various structure alternatives. The new design shall be staged so as not to reduce the number of lanes on Central Avenue during construction.

All of the alternatives shall provide the minimum required vertical clearance. The alternatives must show sufficient detail so that consideration for environmental, right-of-way acquisition, utility relocation, permit(s), traffic and other requirements are considered and included in the cost estimates.

Assumptions	<ul style="list-style-type: none"> ▪ Three (3) hardcopies and an electronic PDF file shall be provided for each deliverable. ▪ The deliverable shall roughly follow Caltrans Structure Advance Planning Studies format, but strict adherence to Caltrans guidelines is not required. This scope assumes that Caltrans Structures Local Assistance only will review; Caltrans Structure Design will not review the bridge.
Deliverables	<ul style="list-style-type: none"> ▪ Structure Alternatives Memo

3.7. Preliminary Foundation Report

The Consultant will prepare a Preliminary Foundation Report (PFR) to provide preliminary geotechnical recommendations to assist with Structure Alternatives Memo. This PFR will be prepared using the available subsurface data and the format will be in accordance with the current Caltrans Guidelines.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ Preliminary Foundation Report

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4. ENVIRONMENTAL DOCUMENTATION

4.1. Environmental Technical Studies

As part of the CEQA/NEPA process, technical studies will be prepared to analyze potential project impacts and identify measures to avoid and/or reduce project impacts. All CEQA and NEPA documentation will be prepared in a format approved by the City and Caltrans.

4.1.1. Noise Study Report

A Noise Study Report (NSR) will be prepared to assess noise impacts associated with the proposed project in accordance with FHWA and Caltrans requirements. Ambient noise monitoring will be conducted at various locations in the vicinity of the project site to document existing environmental conditions and traffic noise levels. Up to ten short-term (i.e., 10-60 minute) and one long-term (i.e., 24-hour) noise measurement surveys will be conducted, to the extent deemed necessary. Ambient traffic noise levels will be monitored during peak-hour periods for purposes of calibrating the traffic noise model. Predicted construction-generated noise levels at nearby receptors will be calculated using the Federal Highway Administration's (FHWA) *Roadway Construction Noise Model*. Traffic noise modeling will be conducted in accordance with FHWA/Caltrans-recommended methodologies and guidance. Accordingly, predicted traffic noise levels will be modeled using the FHWA *Traffic Noise Model*, version 2.5. Groundborne vibration levels typically associated with construction activities and long-term operations will be discussed, based on information to be derived from Caltrans-recommended guidance documents.

4.1.2. Noise Abatement Decision Report

A Noise Abatement Decision Report (NADR) would be required if potentially reasonable and feasible noise abatement is identified in the NSR. Consultant will incorporate technical information from the NSR, other relevant technical studies, engineer's noise abatement construction cost estimate, the noise abatement recommendation, and design considerations into a single, comprehensive document. The NADR will assess the reasonableness and feasibility of noise barriers for adjacent sensitive receptors identified in the NSR. Barrier reasonableness and feasibility is based on the constructability of the barrier, cost of building the barriers, and allotment of abatement cost per resident. This scope assumes that, if required, the NADR would address up to four (4) noise barriers.

4.1.3. Air Quality Studies

Air Quality Report: In accordance with FHWA and Caltrans requirements, an Air Quality Report (AQR) will be prepared to assess air quality and greenhouse gas (GHG) impacts associated with the proposed project. Short-term construction and long-term operational emissions of criteria air pollutants and GHG emissions will be quantified. Construction emissions will be quantified based on project-specific construction information and schedules, to be provided. Long-term operational emissions of criteria air pollutants and GHGs will be quantified using emission factors to be derived from the CTEMFAC model and data to be derived from the traffic analysis prepared for this project. The project's conformity with regional and project-level air quality attainment efforts will be discussed. Localized increases in mobile-source emissions attributable to this project, including carbon monoxide (CO), particulate matter (PM),

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and air toxics are anticipated to be minor and, therefore, will be qualitatively assessed utilizing FHWA/Caltrans-recommended screening protocol.

Air Quality Conformity Assessment: An Air Quality Conformity Assessment (AQCA) will be prepared for the proposed project. The AQCA will be prepared based on information contained in the AQR for the preferred build alternative. To the extent necessary, this scope will include the preparation of forms and supporting documentation required for submittal of the project for interagency PM conformity review. This scope of work assumes that the proposed improvements would be consistent with the regional transportation/transportation improvement plans and would not result in a substantial increase in regional traffic volumes, vehicle miles traveled, or vehicle delay.

4.1.4. Hazardous Waste Study & Investigation

Phase I Initial Site Assessment: A Phase I Initial Site Assessment (ISA) report will be prepared to include a site screening for hazardous materials and petroleum products using the Caltrans ISA Guidance Document. The work will be performed in general accordance with Federal All Appropriate Inquiry (AAI) requirements and American Society for Testing and Materials (ASTM) E1527-13 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. The deliverables will be an ISA Checklist (if requested) and ISA report including discussions of any recognized environmental conditions or areas of concern pertaining to hazardous materials or petroleum products that could impact the project.

4.1.5. Biological Studies

Natural Environment Study (Minimal Impact): Available data on biological resources recorded within and near the project area will be reviewed, including all plant and animal species with the potential to be in the project area. This review will include conducting searches in databases such as the California Natural Diversity Database (CNDDDB) and the National Wetlands Inventory (NWI). Additionally, a list of protected species with the potential to be in the project area will be requested from the U.S. Fish and Wildlife Service (USFWS), and other resources on local flora and fauna will be referenced. Existing studies completed near the project area will also be referenced, including applicable planning documents. The background data and project design plans will be used to delineate the Biological Study Area (BSA), which will be used as the boundary for field surveys and project analysis. A survey of the BSA will be conducted for potential wildlife, their signs, and/or potential habitat. The Natural Environment Study (Minimal Impact) will include a discussion of the existing biological resources in the BSA, potential project impacts on those resources, and proposed avoidance, minimization, and mitigation measures to minimize impacts. The report will also outline any future protected species consultations that may be required with regulatory agencies to obtain project approvals and environmental permits.

4.1.6. Cultural Resource Studies

Area of Potential Effect Map: In coordination with the City and Caltrans, the Area of Potential Effect (APE) boundaries will be developed based on the limits of project construction. An APE map will be prepared that delineates the project limits, including both direct and indirect effects. The Area of Direct Impact will also be illustrated on the APE map.

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Archaeological Survey Report: The archaeological study will begin with a records search conducted at the South Central Coastal Information Center (SCCIC) at California State University, Fullerton. This search will include a review of previous investigation reports and site records of known archaeological and architectural resources within a one mile radius of the project area. In addition, the Historic Property Data File will be reviewed to identify resources that have been listed or determined eligible for listing on the National Register of Historic Places (NRHP) and/or the California Register of Historical Resources (CRHR). Upon Caltrans approval of the APE map, a pedestrian archaeological survey of all undeveloped portions of the APE will be conducted. Any cultural resources encountered will be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms. The Archaeological Study Report (ASR) will be prepared to document the methods and results of the records search and field survey. DPR 523 records, if any, will be included in a confidential appendix. The ASR will be prepared in compliance with Caltrans' SER Volume 2 – Cultural Resources.

Native American Consultation: Native American consultation will be conducted under Assembly Bill (AB 52) and Section 106 of the National Historic Preservation Act (NHPA). To start the process, a search of the Sacred Lands File (SLF) will be requested from the Native American Heritage Commission (NAHC) in Sacramento to identify known Native American resources within or near the APE. In addition, a list of Native American groups and organizations who should be consulted about the project will be requested. Consultation letters and maps will be drafted and submitted to the City and Caltrans for review. The approved letters will be printed on agency letterhead and the agency-signed letters will be mailed via certified, return-receipt mail. Up to two (2) follow-up phone calls will be made to each tribal contact. All responses will be provided to the City and Caltrans as they are received, and assistance will be provided for any additional consultation efforts, including attendance at one tribal consultation meeting or site visit. The methods and results of the Native American consultation support will be documented in the ASR with a consultation log and copies of correspondence included as an appendix.

Historic Property Survey Report: An Historic Properties Survey Report (HPSR) will be prepared to document the APE and to identify potential historic properties in the APE. The HPSR will include a field survey, a records search, and consultation with the public.

Historical Resources Evaluation Report: To confirm the assumptions in this proposal, a field survey will be conducted to identify known and potential historic properties in the project APE. Potential historic properties are those with buildings or structures over 45 years of age. Known historic properties are those that are listed or have been determined eligible for listing under the local, state, or federal historic designation programs. Digital photographs will be taken during the field survey. All photographs will be taken from the public right-of-way, unless property access is granted in advance. Property-specific and general research will be conducted to develop relevant historic contexts for evaluation of the potential historic properties. Research may include general historical information, building permits, county tax assessor records, Sanborn maps, etc. Outreach will be conducted with potentially interested members of the public in accordance with established Section 106 procedures. Assistance will be provided to Caltrans District 8 for consultation with the Cultural Studies Office (CSO) and State Historic Preservation Officer (SHPO). Consultation will also be conducted with Caltrans District 8 and CSO to determine if NRHP eligibility will be assumed for the UPRR within the project boundaries. The results of the evaluations will be recorded on DPR 523 inventory forms and included in the Historical Resources Evaluation Report (HRER).

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Assumptions	See descriptions of various studies, reports, and memos contained within this section for assumption related to each type of Environmental Technical Study.
Deliverables	Technical Studies, Reports, and Memoranda

4.2. Public Information Meetings

The Consultant will chair/lead the Community/Public Information Meetings by preparing multiple renderings (up to 5 different views), create at least one photo transformation, project fact sheets and project website, etc. to assist the City and Caltrans to obtain public input. Records of public meetings will be prepared and submitted to the City and Caltrans. In addition, attendance at up to three (3) public meetings (i.e., Traffic and Transportation Commission, Planning Commission, and City Council) and preparation for these meetings should also be budgeted to solicit public input.

The Consultant will work with City staff to develop a comprehensive Public Outreach Plan to clearly outline the outreach objectives, key stakeholder groups, communication tasks and timeline, as well as important messages. The communications plans will serve as the roadmap for public outreach tasks during the planning process for the bridge replacement.

Consultant will plan, coordinate, and facilitate three community workshops and stakeholder group meetings at key points during the project to better inform project stakeholders, receive input on project alternatives, and to promote an open process emphasizing two-way communication. It is envisioned that the initial meeting will be in the format of an open house and presentation/Q&A session, with opportunities for members of the public to interact with members of the project team. We recommend that this meeting is conducted at project initiation, with the objective of informing and educating the public about the project’s purpose and need, as well as solicit input on possible alternatives. It will also serve as a vehicle for further defining public issues and concerns, before the conceptual alternatives are developed. A second and third (in-person) meeting will be conducted to gain additional public input on the conceptual alternatives and Preliminary Preferred Alternative. For all meetings and presentations, Consultant will produce a record of all outreach activity, including sign-in sheets, notes and comment summaries.

To further communicate project information, announce public meetings, and show progress in the project development, the Consultant will develop a project webpage to be included on the City’s website. The webpage will include a project description, purpose and benefits, and schedule, as well as host all project-related collateral materials (i.e. fact sheet and FAQ). Depending on the site capabilities, the webpage may also include a means for visitors to submit comments and questions about the project. The webpage will be updated monthly as needed during the project. Additionally, we will leverage the City’s existing social media page to encourage participation at presentations and public meetings.

Consultant will also develop project collateral material to ensure that consistent, accurate, easy to understand information is provided to the public. Materials will be provided in English and Spanish and will include a project fact sheet, frequently asked questions and postcards for meeting event notices.

Assumptions	<ul style="list-style-type: none"> ▪ The City will assist with distributing public information. ▪ Printing and postage for all collateral will be handled by the City.
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- Deliverables
- Public Outreach Plan (Draft and Final)
 - Collateral Material – (1) Project Fact Sheet and (1) Frequently Asked Questions (FAQ); (3) postcard mailers; PowerPoint Presentations, Exhibit Boards
 - (3) Public Workshop Meetings
 - (3) Stakeholder Group Meetings
 - (1) Project Webpage
 - Email Updates
 - Stakeholder Database

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PHASE II – FINAL DESIGN PHASE

Upon satisfactory completion of all Phase I tasks, the Consultant will provide the Final Design Phase Services consisting of final design, utility coordination, design surveys, Plans, Specifications & Estimates (PS&E), permitting, agency coordination followed by Construction Bidding and Construction Support Services.

5. PLANS, SPECIFICATIONS AND ESTIMATES

This task shall include detailed engineering calculations, design, construction plans, specifications and special provisions and engineer’s construction cost estimate for the project that will enable the City to advertise and award the construction contract for the project.

Milestone submittals shall be made at the following levels of completion: 60%, 90%, 100% and Final / Issued for Bid (IFB). The following indicates the reproduction requirements (hardcopies) for each milestone submittal:

- 60% PS&E: Three (3) full-size (24" x 36") sets of design plans.
- 90% PS&E: Three (3) full-size (24" x 36") sets of design plans and one (1) copy of the Special Provisions.
- 100% PS&E: Four (4) full-size (24" x 36") sets of signed and sealed design plans and four (4) copies of signed and sealed Special Provisions.
- Final PS&E: Electronic copies of signed and sealed PS&E documents.

All reports, plans, specifications and quantity calculations shall conform to criteria, policies, procedures and standards of Caltrans and the City, and shall be made available to the City at stages specified in the milestone schedule and upon request.

5.1. Coordination

This task encompasses coordination with the City and its various departments, coordinated with other involved agencies (e.g. UPRR), and coordination with third-party utility companies.

The Consultant will provide technical support and prepare documents necessary for executing agreements and obtaining permits needed for the construction of the Project from UPRR and CPUC. Permits anticipated for the construction of the Project include:

- UPRR Construction & Maintenance Agreement
- CPUC General Order 88-B Application

Permits necessary for the design of the project shall be obtained by the Consultant (with City assistance, as required). A UPRR Right of Entry/Temporary Use of Railroad Property permit is anticipated for access to survey the existing railroad tracks within the limits of the bridge.

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| Assumptions | <ul style="list-style-type: none"> ▪ City shall pay for (or reimburse) any permit fees required for design and construction. ▪ City shall execute the Preliminary Engineering Agreement with UPRR and pay the UPRR preliminary engineering design fees. |
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	<ul style="list-style-type: none"> ▪ City shall waive (or pay other departments for) any permit fees related to survey, potholing, geotechnical investigation, etc. within City right-of-way.
Deliverables	<ul style="list-style-type: none"> ▪ Permits, as required for design and construction

5.1.1. Project Progress

Progress Review Meetings shall be held at intervals deemed appropriate by the City. At or before each of these meetings, the Consultant shall furnish two (2) copies of all completed or partially completed, plans, specifications and estimates which have been developed or altered since the last Progress Review Meeting. Progress Reports shall be submitted at monthly intervals, indicating progress achieved during the reporting period. The Consultant shall provide the City with two (2) copies of the Progress Report at least four (4) working days before the Monthly Progress Meeting.

5.1.2. Utility Coordination

Consultant will Research and obtain file copy of utility maps within the project limits for existing and/or proposed facilities, prepare preliminary plans with utility notices/questionnaires to be sent to utility companies, plot existing and proposed utilities in plan (profile when applicable), monitor response of utility notices received by the City and then make recommendations for mitigating conflicts, attend coordination meetings when required regarding adjustments and relocations, pothole information, where required, shall be coordinated by the Consultant.

Consultant shall monitor responses of utility notices received and make recommendations for mitigating conflicts. Consultant shall provide written responses to utility companies with regard to stated concerns and conduct design coordination meetings with utility companies as needed. Unresolved issues shall be brought to the attention of the City as early as practical. Utility conflict issues shall be resolved prior to the completion of the final design plans as follows:

- Reasonable efforts shall be taken to accommodate utility company requests for minor design changes to accommodate their facilities. Consultant understands that the utility companies are generally operating within the City right-of-way but may have prior rights to that of the City in some cases.
- Consultant shall monitor each utility owner that has conflicting facilities and shall obtain relocation plans and other relevant information from utility owner. Consultant shall review relocation plans for conformance with the requirements of the project.
- Consultant will provide support to review and comment on third-party utility design plans provided by the utility companies (SCE, SoCal Gas, Time Warner Cable, and AT&T). Plan review will consider routes; conflicts with other utilities; impacts to existing and proposed improvements; and potential easements.
- Consultant shall coordinate inclusion of special provisions in City's bid documents for adjustments and relocations of utility facilities as alternate bid items, if requested by the owning utility. Said work may require that cooperative agreements be prepared by City between the City and the owning utility companies. Consultant shall provide information and exhibits as required to support the preparation of cooperative agreements, if needed.

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- Consultant shall make recommendations for special provision language with regard to utility issues, recommendations for construction windows of time for utility relocation activities, recommendations for inclusion of utility bid items, etc.
- For utility conflicts with City-owned water, sewer, signal electrical, or storm drain that require relocating, Consultant shall prepare the required relocation plans or new installation plans as necessary to provide biddable Plans and Specifications. City staff will submit the official notice / order to the utility companies to relocate conflicting facilities.
- For utility conflicts or improvements within properties that will be affected with the Project, the Consultant is responsible to prepare the needed plans for relocation or demolitions and re-establishment (such as water, sewer, electrical services, gas services, and communication).

Assumptions	<ul style="list-style-type: none"> ▪ The City shall provide a utility contact list. ▪ The City shall be responsible for any design fees assessed by third-party utility companies. ▪ This scope includes up to eight (8) meetings with utility companies. ▪ For budgeting purposes, this scope anticipates four (4) review packages (plans and estimates) from each utility company (SCE, AT&T, TWC, and SoCal Gas) for total of twelve (12) review packages. ▪ Utility Easement and Franchise Agreements to be provided by the Utility Owner or City's Right-of-Way Consultant. ▪ Review of third-party utility plans will focus on impacts to City facilities with respect to existing and proposed roadway improvements and utility conflicts. Technical reviews for adequacy or completeness of the proposed utility facility itself (electrical and structural engineering) is not within the scope or purview of this work. ▪ For budgeting purposes, this scope anticipates seven (7) days of potholing to positively locate existing underground utilities and four (4) days of survey for pothole reconnaissance.
Deliverables	<ul style="list-style-type: none"> ▪ Utility Meeting Minutes ▪ Supporting documentation for cooperative agreements (as required)

5.1.3. Union Pacific Railroad

Coordination with UPRR will include a Right-of-Entry Agreement, the preparation and execution of a Construction & Maintenance Agreement, and plan submittals and review.

The Right-of-Entry Agreement (also referred to as a Temporary Use of Railroad Property Permit) will be executed between UPRR and the Consultant, permitting access for data collection (i.e. survey).

Assumptions	<ul style="list-style-type: none"> ▪ The Consultant shall pay the non-refundable application fee and shall be reimbursed by the City. ▪ Use of the UPRR right-of-way during design shall primarily include survey and field inspection. Geotechnical investigations and potholing shall be performed outside of the UPRR right-of-way whenever possible.
Deliverables	<ul style="list-style-type: none"> ▪ UPRR Right-of-Entry / Temporary Use of Railroad Property Agreement

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5.1.3.1. Construction & Maintenance Agreement

Review and approval of the design by UPRR will be required. Formal approval is expected to be provided through execution of a Construction and Maintenance Agreement. The Consultant shall prepare the text and associated exhibits.

Assumptions	<ul style="list-style-type: none"> ▪ The City and the City’s Right-of-Way Consultant shall be responsible for negotiating the cost of any easements (e.g. Temporary Construction License and Aerial Easement) within UPRR right-of-way. The Consultant shall supply the right-of-way engineering documents (plats and legal descriptions) for the easement areas.
Deliverables	<ul style="list-style-type: none"> ▪ UPRR Construction & Maintenance Agreement

5.1.3.2. Submittals

The Consultant shall submit plans to UPRR via the City for review and approval. The requirements of the BNSF/UPRR Guidelines for Railroad Grade Separation Projects shall be followed, which includes the following submittals for Overpass structures:

- Concept Submittal
- 30% Submittal
- Final Plans Submittal

The Concept submittal shall include the following:

- Plan, Elevation, and Typical Section of proposed grade separation.
- Photo log with pictures of the proposed project location. Site pictures shall be in all controlling directions including North, East, South, and West. The plan view should show a reference location and direction for each picture.

The 30% submittal shall include the following:

- Applicant response to Railroad review comments on the concept submittal. The 30% submittal shall reflect concept review comments.
- Design Plans showing a Plan View, Elevation View, Typical Section, Construction Notes and Railroad Profile Grade Diagram.
- Project Specifications and/or Special Provisions, including Railroad coordination requirements.
- Drainage Report (as required).
- Construction Phasing Plans must show all required phasing, construction procedures, temporary shoring layout, controlling dimensions and elevations.

The Final Plans submittal shall include the following:

- Applicant response to Railroad review comments on the 30% submittal. The Final Plans submittal shall reflect all previous review comments.
- Design Plans showing a Plan View, Elevation View, Typical Section, Construction Notes and Railroad Profile Grade Diagram.
- Project Specifications and/or Special Provisions, including Railroad coordination requirements.
- Drainage Report (as required).

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- Construction phasing plans must show all required phasing, construction procedures, temporary shoring layout, controlling dimensions and elevations.

At the conclusion of plan review and comment resolution, it is expected that UPRR will issue a letter of project acceptance.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> UPRR Concept Submittal UPRR 30% Submittal UPRR Final Plans Submittal

5.1.4. California Public Utilities Commission

The Consultant shall provide the City will the necessary support, applications, drawings, exhibits, meetings, and other material required to obtain CPUC approval. For a General Order 88-B, the application package may include:

- Request to CPUC Staff for Authorization to Alter Highway-Rail Crossing Pursuant to General Order 88-B (Application Form)
- Vicinity Map
- General Plan & Profiles
- Environmental Documentation

Assumptions	It is anticipated that CPUC approval will be provided through the General Order 88-B process.
Deliverables	<ul style="list-style-type: none"> CPUC Field Diagnostic Meeting CPUC General Order 88-B Application

5.1.5. Other Stakeholders

Coordination with the City, other consultants and other involved agencies will be required to achieve compatible designs, phasing of construction with existing or designed conditions, and timely delivery of the contract PS&E. Coordination may include coordination with Caltrans, FHWA, State Reclamation Board, U.S. Army Corps of Engineers, County of San Bernardino, and other agencies. At the City's option, coordination efforts may be performed by the Consultant's direct contact, by the Consultant acting through the City or by the City only. When coordination efforts require Agreement, such Agreement shall be coordinated through the City.

Assumptions	Caltrans coordination will be limited to Local Assistance. Caltrans review of the PS&E packages will be cursory (if any): Full design oversight is not anticipated.
Deliverables	Meeting agendas and minutes

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5.2. Data Collection

The Consultant will conduct field survey and potholing based on the Preferred Alternative identified in Phase I.

5.2.1. Field Survey

Design level surveys provided within the proposed project limits shall include the following:

- Full cross sections within the street improvements
- Top of rail elevations
- Off-site survey to assist in restoration of impacted improvements
- All surface utilities including overhead lines as necessary to verify clearances
- Maintenance hole rim and inverts for all sewer and storm drain facilities

Field crews will be dispatched to locate local monumentation for survey control and collect topographic data including cross sections at 100-foot intervals and include: back of walk, top of curb, flowline of gutters, lip of gutters, grade breaks, and will include transitions and locations where geometric characteristics vary. Also information on utilities at ground level including water meters, hydrants, valves, blow-offs, sewer and storm drain manholes, cleanouts, vaults, transformer will be gathered.

Pothole and geotechnical boring locations shall be surveyed to the maximum extent feasible.

Assumptions	<ul style="list-style-type: none"> ▪ Five (5) days of UPRR Flagmen services are included in this scope. ▪ Five (5) days of traffic control are included in this scope. ▪ Engineer Stamped Traffic Control Plans are not included. Any field survey requiring traffic control is assumed to be performed in accordance with the WATCH Manual. If required, Consultant can prepare Traffic Control Plans signed by a licensed Civil or Traffic Engineer for field survey work for an additional fee. ▪ Consultant shall be responsible, with City's assistance (as needed), for obtaining permits to survey within UPRR right-of-way. ▪ Aerial mapping shall be used as a base map and spliced with ground survey data.
Deliverables	<ul style="list-style-type: none"> ▪ Survey base map in CADD format ▪ Survey points in CADD format ▪ Diagrams of maintenance holes with flow direction and invert data

5.2.2. Potholing

The Consultant shall perform ground penetrating radar (GPR), concrete scanning, utility location, CCTV, mapping, and or potholing services. While it is possible to locate many objects with GPR, there can be objects that are simply too small for the radar to find. This limitation is more widely experienced when using low frequency antennas, which provide lower resolution data. The depth range of GPR is also limited by the electrical conductivity of the ground, the transmitted center frequency and the radiated power. As conductivity increases, the penetration depth decreases. This is because the electromagnetic energy is more quickly dissipated into heat, causing a loss in signal strength at greater depth. Higher frequencies do not penetrate as far as lower frequencies, but give better resolution. Good penetration is achieved in dry sandy soils or massive dry materials such as granite, limestone, and concrete. While GPR may be the

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less invasive method in locating the existing facilities, potholing to positively locate each facility laterally and vertically would be the most effective method.

Assumptions	<ul style="list-style-type: none"> ▪ Up to seven (7) days of potholing are included in this scope. ▪ Up to four (4) days survey are included in this scope to capture the location of the potholes ▪ CCTV Pipeline Inspection is not included. ▪ Right-of-entry to private properties shall be obtained by the City or the City's Right-of-Way Consultant prior to commencing Utility locations activities. ▪ Engineer Stamped Traffic Control Plans are not included. Any potholing requiring traffic control is assumed to be performed in accordance with the WATCH Manual. If required, Consultant can prepare Traffic Control Plans signed by a licensed Civil or Traffic Engineer for potholing work for an additional fee.
Deliverables	<ul style="list-style-type: none"> ▪ Matrix of Pothole Information ▪ Pothole Data Plan (to be included in milestone PS&E submittals)

5.3. Reports

This task includes the reports required for PS&E submittals. Draft reports will be prepared at the 60% milestone and will be updated as needed for subsequent milestones, unless otherwise noted.

5.3.1. Water Quality Management Plan

Consultant will prepare a Water Quality Management Plan (WQMP) in cooperation with the City for the project as required for urban runoff from municipal separate storm sewer systems (MS4 permit). The Consultant will advise the City on the requirement of the San Bernardino County Transportation Project BMP Guidance Document. The scope of the WQMP will include recommendations for post-construction permanent best management practices (BMPs), including source control (structural and non-structural) and treatment BMPs. Recommendations for BMPs will be incorporated into the project's PS&E. This work includes documentation and incorporation of environmental requirements and mitigation measures, NPDES, temporary and permanent BMPs, air/water quality, erosion/sediment control) into the Project construction documents.

Assumptions	<ul style="list-style-type: none"> ▪ Consultant shall provide base Project data (areas, slopes, etc.) for the Storm Water Pollution Prevention Plan (SWPPP). The Contractor shall be required to engage a licensed engineer to prepare the SWPPP. ▪ City shall provide input on their preferred BMPs to be incorporated (if needed).
Deliverables	<ul style="list-style-type: none"> ▪ Water Quality Management Plan ▪ Storm Water Pollution Control Plans ▪ Storm Water BMP Plans ▪ Storm Water Pollution Plan Preparation ▪ Notice of Intent

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5.3.2. Hydrology & Hydraulics Report

The Hydrology and Hydraulics Report shall quantify the magnitude and frequency of design flows from adjacent areas for the Project area, as well as the peak flows and volumes attributable to the proposed improvements. It will also include a description of the proposed on-site drainage improvements and any treatment Best Management Practices (BMPs) to be incorporated into the design to satisfy National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Permit (MS4 Permit) requirements.

Consultant will investigate hydrologic and hydraulic features of the site as necessary to accommodate the grade separation.

Consultant shall perform hydrology and hydraulic studies to obtain and provide design solutions which will remove surface runoff from the upstream side of the highway to the downstream side.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ Draft Hydrology & Hydraulics Report ▪ Final Hydrology & Hydraulics Report

5.3.3. Traffic Management Plan

A Traffic Management Plan (TMP) will be developed with the objective of the TMP being to provide continuous traffic circulation and access, with adequate space for safe and efficient construction. The TMP will be coordinated with project stakeholders. Development of the staged construction and traffic detours or alterations to traffic patterns will be included.

The TMP shall be developed according to Caltrans TMP Guidelines. TMP strategies include:

- Public Information
- Motorist Information
- Incident Management
- Construction Strategies
- Demand Management
- Alternate Routes (or Detours)

Assumptions	<ul style="list-style-type: none"> ▪ Although the TMP shall be prepared per Caltrans guidelines, it is anticipated that Caltrans will not review or approve the TMP. ▪ Analysis of one (1) alternate route will be provided. Long-term detours are not anticipated, but traffic may be routed to the Monte Vista Grade Separation for short-term closures or reductions in traffic capacity on Central Avenue.
Deliverables	<ul style="list-style-type: none"> ▪ Draft Traffic Management Plan ▪ Final Traffic Management Plan

5.3.4. Landscape & Aesthetic Concepts

Based on input provided by the City, the stakeholders and the information gathered during the site reconnaissance, the Consultant shall define opportunities and constraints including site features and

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context, climatic influences, pedestrian and vehicular circulation systems, landscape planting, and view corridors for use in the preparation of the landscape concept plan. Conceptual plans or exhibits shall be submitted. The landscape concept shall contain an initial plant palette, planting design, and median hardscape treatments. Consultant shall prepare an image board composed of relevant imagery. Proposed hardscape and softscape materials and finishes shall be included to further illustrate the design intent. Image board may be presented at community outreach meetings, at the City's discretion.

Colored 2D exhibits shall be prepared for bridge and retaining wall aesthetics. Preferred options shall be developed into 3D renderings. Aesthetic options may be presented at community outreach meetings for stakeholder input.

Assumptions	<ul style="list-style-type: none"> ▪ One (1) revision to the landscape concepts is included in this scope. ▪ Up to two (2) bridge and two (2) retaining wall aesthetic options are included in this scope.
Deliverables	<ul style="list-style-type: none"> ▪ Landscape Concepts ▪ Bridge and Retaining Wall Aesthetic Concepts

5.3.5. Geotechnical Investigations & Report

The Consultant shall conduct geotechnical investigation, and shall report findings to support structures, pavement, and other portions of the Project requiring geotechnical support.

The Consultant will conduct geotechnical field investigations per the table below. Data obtained from some boreholes will be used for multiple design elements.

Design Element	Proposed Number of Borings	Approximate Proposed Depth (feet)
Bridge Abutments	2	100
Bridge Bents	3	150
Retaining Walls	2	50
	2	30
Pavement	2	5

The boreholes will be excavated using a truck-mounted or track-mounted drilling rig equipped with 8-inch diameter hollow-stem augers. Asphalt concrete cold-patch will be used to replace asphalt that is removed by excavations, and quick-set cement will be used to replace concrete that is removed by excavations.

Consultant will prepare a boring location plan and this plan will be used to secure encroachment permits from City of Montclair, UPRR, and Metrolink.

Consultant field personnel will collect soil samples for laboratory testing, including bulk samples of near-surface soils and small disturbed and relatively undisturbed ring samples of deeper soils. The small disturbed and relatively undisturbed soil samples will be collected using split-spoon samplers at a vertical interval of about 5 feet, alternating between the Standard Penetration Test (SPT) sampler and the Modified California Drive (MCD) sampler. Samples of subsurface soils will be logged during the field investigation, secured in their containers or collected in plastic bags, and transported to the Consultant's laboratory.

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Laboratory Testing

Field logs of the boreholes will be reviewed to select representative soil samples for laboratory testing. Various laboratory tests will be performed on soil samples to determine or derive their physical and engineering characteristics. Anticipated laboratory tests include: in-situ density and moisture content, grain size, direct shear, R-value, and soil corrosion tests. Laboratory tests will be conducted in general accordance with American Society for Testing and Materials (ASTM) standards or California Test methods.

Geotechnical Engineering Analyses

Results obtained from the field investigation and laboratory testing will be used to characterize subsurface soils and conditions and create idealized soil profiles for design purpose. The following analyses will be performed for the project:

- Evaluation of seismicity and estimation of Peak Ground Acceleration based on the Caltrans design criteria, and recommendation of ARS curves for bridge structural design.
- Assessment of soil liquefaction potential, seismic settlement, and lateral spreading.
- Foundation analysis for bridge and retaining walls.
- Assessment of global slope stability.
- Evaluation of soil corrosivity conditions and recommendations for mitigation measures.
- Design of pavement structural section in accordance with the Caltrans method.

Report Preparation

The Consultant will prepare a Foundation Report (FR) to provide all the geotechnical design and construction recommendations for the project. FR will include recommendations for bridge, retaining wall, slopes, and pavement structural sections. The Consultant will address any comments resulting from the City of Montclair review and prepare a final Foundation Report.

Assumptions	<ul style="list-style-type: none"> ▪ Geotechnical Investigation is allowed between 8 AM and 5 PM on weekdays. ▪ No investigation of hazardous materials is included in this scope of work. If hazardous materials are encountered during field investigations, work will immediately be terminated and the City will be notified. Soil cuttings are assumed to be non-hazardous for disposal purposes. Remedial mitigation plans for any removal of hazardous waste are not included in the scope of work. ▪ No permit fee is assumed for the City encroachment permit. UPRR permit fees, Railroad Protective Liability insurance premium, costs for flagman, and cost of attendance of railroad safety training classes are not included in this scope. ▪ Boring depths for the proposed replacement bridge are based on the assumption that driven piles will be used at abutments and large diameter CIDH piles that are not more than 125 feet long will be used at bents. ▪ Existing pavement rehabilitation recommendations, if required, will be provided by others. ▪ The reports will not be reviewed by Caltrans.
Deliverables	<ul style="list-style-type: none"> ▪ Draft and Final Foundation Report (FR)

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5.3.6. Structure Type Selection Report

A Structure Type Selection Report will be prepared for the Central Avenue Bridge. The bridge type report will include a discussion of foundation and falsework requirements, seismic and aesthetic considerations, traffic handling requirements, staging, and construction cost. Consultant will submit Type Selection documents to the City and UPRR for review and approval.

Assumptions	<ul style="list-style-type: none"> ▪ The approved Structure Type Selection Report shall not be updated throughout the course of PS&E. Any changes resulting from further development of the PS&E shall not require updates to the Structure Type Selection Report.
Deliverables	<ul style="list-style-type: none"> ▪ Structure Type Selection Report

5.4. Calculations

All roadway calculations and structural analyses and design will be performed using AASHTO and Caltrans current standards and requirements. Electronic files for all structural details and calculations shall be submitted at the end of the contract or when requested by the City.

5.4.1. Civil/Survey Calculations

The Consultant shall provide the following roadway calculations:

- Geometric traverse and right-of-way
- Template notes and slope staking note
- Profile
- Grid grades

Survey calculations shall include measurements of square footage for certain fee takes and the associated closure reports necessary for PS&E.

Quantity calculations shall be submitted with the Cost Estimates.

Calculations shall be submitted at the 60% and 90% milestones, and updated as required beyond the 90% milestone. The 60% calculations (Draft) shall undergo a cursory QA/QC review. The 90% (Final) calculations shall be fully checked and reconciled.

Assumptions	Cross sections for proposed roadway features (CL, TC, FL) will be provided at 25-foot intervals and key points.
Deliverables	<ul style="list-style-type: none"> ▪ Draft Civil/Survey Calculations ▪ Final Civil/Survey Calculations

5.4.2. Structural Calculations

Structural calculations shall be provided for the bridge and any retaining walls that are not covered by Caltrans Standard Plans or are manufacturer-/contractor-designed retaining walls. AASHTO and Caltrans criteria shall govern the design of the structures.

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Calculations shall be submitted at the 60% and 90% milestones, and updated as required beyond the 90% milestone. The 60% calculations (Draft) shall undergo a cursory QA/QC review. The 90% (Final) calculations shall be fully checked and reconciled with the Independent Checker. Supplemental calculations will be submitted at the 100% (Final) milestone, as needed.

Assumptions	This scope assumes that the selected bridge type is a two-span girder bridge.
Deliverables	<ul style="list-style-type: none"> ▪ Draft Structural Calculations at 60% ▪ Final Structural Calculations at 90% ▪ Supplemental (or Updated) Structural Calculations at 100%

5.4.3. Independent Check

Independent Structural Calculations shall be performed between the 60% and 90% milestones.

The independent checker shall check the structure and complete the following:

- Review relevant background and supporting information;
- Verify member capacities;
- Review plans for completeness and consistency with the design;
- Resolve design issues with the designer – final design will reflect agreement between the designer and checker;
- Check the corrected plans for conformance with prior comments;
- Review project special provisions to ensure all bridge items and associated items of work are adequately addressed.

Assumptions	<ul style="list-style-type: none"> ▪ Structures shall be checked using a procedure similar to "Red-Blue-Yellow", as outlined in the Quality Control Procedures. A second set of structural check calculations shall not be submitted.
Deliverables	N/A

5.5. Plan Preparation

Plans shall be prepared and submitted for the 60%, 90%, and 100%, and Final [Issued for Bid (IFB)] milestones. Three (3) sets of 24-inch x 36-inch Plans shall be provided at each milestone, except one (1) set of 24-inch x 36-inch original signed/sealed plans shall be submitted for the IFB submittal.

Plan shall be prepared electronically according to the CADD Standards established in the approved Work Plan.

Each plan sheet shall bear the State of California Registered Professional Engineer registration seal with the signature and license number of the Engineer who is in responsible charge for developing the plan. The independent plan check engineer shall be noted on the plan sheets.

The following sections of this Scope of Work describe specific categories of plans (e.g. Roadway Plans). Consultant shall not submit plans separately; all plans noted shall be submitted as a combined set at each milestone submittal.

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5.5.1. General Plans

General plans may include title sheet, vicinity and location map, sheet index, location map, construction notes, construction legend, standard symbols, telephone numbers of utilities and other affected agencies and businesses, basis of bearing and bench mark, general notes and abbreviations.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

5.5.2. Survey Control Plan

A survey and horizontal control plan shall be developed to provide street and rail centerlines and bridge ties to establish project control points.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

5.5.3. Roadway Plans

Roadway or related facilities plans shall be prepared in conformance with the current City Design and Standard Plans.

Roadway plans may include:

- Demolition and Removal Plans
- Typical Sections
- Plan and Profile
- Intersection Details
- Grading Plans
- Erosion Control Plans
- Construction Details

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

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5.5.4. Traffic Plans

Traffic plans may include:

- Traffic Signal Plans
- Pavement Delineation & Signing Plans
- Overhead Sign Plan
- Sign Panel Detail Plans
- Signal Interconnect Plans
- Stage Construction Plans
- Traffic Handling Plans
- Temporary Traffic Signal Plans
- Detour and Construction Area Sign Plans
- Street Lighting Plans
- Parking Lot Lighting Plans

Traffic Handling Plans will be prepared for each stage of construction.

Street Lighting Plans shall be provided for new and modified roadways within the project limits. Lighting may be required under the bridge structure for the UPRR yard. It is assumed that no temporary lighting will be required. Photometrics will be developed and the plans will depict pole and luminaire type and locations, pull box and power source locations, and wiring/circuit diagrams, schedules, and details (as necessary).

Assumptions	<ul style="list-style-type: none"> ▪ A maximum of three (3) stages of construction are assumed for Traffic Handling Plans. ▪ A maximum of two (2) locations are assumed for new or modified traffic signals. ▪ Temporary street lighting is not included in this scope. ▪ No specialty lighting on the bridge structure is included in this scope.
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

5.5.5. Utility Plans

Existing Composite Utility Plans: Consultant shall identify existing utilities based on collected record, survey, and pothole data. Disposition (protect-in-place, abandon, relocate, relocate by others, etc.) of existing utilities shall be identified.

Proposed Composite Utility Plans: Proposed utility locations shall be based upon the Consultant’s designed elements as well as information provided by third-party utility companies, including the undergrounding of electrical, telephone, and cable facilities. Consultant shall design the City Utility relocations per the Cities’ standards. Any new utilities shall be depicted.

Pothole Data Sheet(s): The potholes shall be identified on the plans. A pothole log shall be provided depicting station/offset or coordinates of pothole, utility information such as size, material, and depth, and elevations of existing ground and top of utility.

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Assumptions	<ul style="list-style-type: none"> ▪ Existing utilities will be protected when possible. ▪ Sewer capacity modeling or calculations are not anticipated or included in this scope of work. ▪ Water line capacity modeling or calculation are not anticipated or included in this scope of work. ▪ Sewer and water proposed relocations will be done in-kind for pipe size and materials.
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

5.5.6. Landscaping & Irrigation Plans

Landscape and Irrigation plans shall be prepared in conformance with City’s Specific Plan, City’s Water Conservation Ordinance and Caltrans standards and requirements.

Landscaping Plans shall indicate plant species, sizes, quantities and locations with notes, legends, detail reference call-outs and planting details.

Irrigation Plans shall be prepared based on use of City’s Reclaimed Water, and in conformance with standards of the Department of Health Services. Irrigation Plans shall indicate all components and facilities for a permanent automatic irrigation system to support the improvements. Irrigation system includes, but is not limited to, sprinkler head layout, piping, valves, water supply Point-of-Connection(s), irrigation controllers with notes and call-outs. Irrigation system design shall incorporate current industry technology and installation methods to produce an efficient system operating within a public environment. Also included shall be the equipment and material legends, and installation details for proposed irrigation facilities.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

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5.5.7. Drainage Plans

Plans shall be provided for the any proposed storm drain facilities, including incorporation of Post Construction Structural BMPs. Plan and profile sheets shall be provided for all mainline storm drains. Plans shall include connector pipe profile sheets and miscellaneous construction detail sheets, as required, for detailing connections to existing facilities, and other miscellaneous details.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

5.5.8. Bridge Plans

Layout sheets, elevations and details shall be provided for the structure selected in the Structure Type Selection Report.

Caltrans Standard Plans and City/County Standards may be referenced, where applicable.

Assumptions	This scope assumes that the selected bridge type is a two-span girder bridge.
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

5.5.9. Retaining Wall Plans

Layout sheets, elevations and details shall be provided for the necessary retaining walls on the project. The analysis, design, and layout of three (3) retaining wall types are included in this scope:

- Caltrans Type 1 or 5 cast-in-place concrete cantilevered retaining walls.
- Mechanically Stabilized Earth (MSE) walls.
- Segmental Retaining Walls (also known as Precast Modular Block Walls).

Caltrans Standard Plans and City/County Standards may be referenced, where applicable.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

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5.5.10. Log of Test Borings

Log of Test Borings sheets will be included as part of the structure plans. Consultant shall prepare the Log of Test Borings sheets in accordance with Caltrans Standard Procedures.

Assumptions	N/A
Deliverables	<ul style="list-style-type: none"> ▪ 60% Plans ▪ 90% Plans ▪ 100% Plans ▪ IFB Plans

5.6. Specifications

The Consultant shall prepare and furnish Special Provisions for items of work included in the plans which are not covered in the Standard Specifications, Caltrans-approved Standard Special Provisions, and City-approved Standard Special Provisions.

The Consultant will prepare complete contract specifications based on City Standards, and the Standard Specifications for Public Works Construction (Greenbook) and include the federal provisions. Structure construction shall follow the Caltrans Standard Specification. Consultant shall use the latest Caltrans Standard Specifications and shall convert the appropriate sections to English units.

Specifications shall be provided at the 60%, 90%, 100%, and IFB milestones.

Assumptions	<ul style="list-style-type: none"> ▪ Technical Specifications and Special Provisions will be prepared in Microsoft Word format. ▪ General Conditions (boilerplate) will be provided by the City.
Deliverables	<ul style="list-style-type: none"> ▪ 60% Specifications ▪ 90% Specifications ▪ 100% Specifications ▪ IFB Specifications

5.7. Cost Estimates

Throughout development of the PS&E, the Consultant shall update the preliminary cost estimate.

A list of contract's pay items (Bid Schedule) with the descriptions, item codes and estimated quantities shall be included in the front of the special provisions. The Consultant shall prepare quantity calculations for items that are applicable to this project and prepare cost estimates. Quantities for all contract pay items shall be substantiated by calculations. Quantity calculations shall be neat and orderly and shall show all sketches, diagrams, and dimensions necessary to allow them to be independently used by field inspectors during construction. All quantity calculations shall be independently checked and substantiated with independent calculations.

Assumptions	<ul style="list-style-type: none"> ▪ Cost Estimates shall be prepared in MS Excel format. ▪ Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but
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not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the City wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the City will be paid for as Additional Services.

- | | |
|--------------|---|
| Deliverables | <ul style="list-style-type: none"> ▪ 60% Cost Estimate, Quantities & Bid Schedule ▪ 90% Cost Estimate, Quantities & Bid Schedule ▪ 100% Cost Estimate, Quantities & Bid Schedule ▪ IFB Cost Estimate, Quantities & Bid Schedule |
|--------------|---|

Exhibit B
Schedule of Payments

Central Avenue over UPRR/Amtrak/Metrolink
 Fee Summary | Fee Proposal Rev 3 (2020-03-20)

Task	Biggs Cardosa	BKF	CirclePoint	Earth Mechanics	GPA Consulting	JMA Civil	Kimley-Horn	Totals
	PM/Structures	Civil / Roadway/ Drainage / Utilities	Public Outreach	Geotechnical	Environmental	Railroad Coordination	Traffic	
Task 1 - Project Management	\$189,364	\$84,169	\$0	\$2,542	\$30,348	\$32,532	\$8,878	\$347,832
Task 2 - State and Federal Funding Assistance	\$26,625	\$0	\$0	\$0	\$0	\$0	\$0	\$26,625
Task 3 - Preliminary/Right-of-Way Engineering	\$87,136	\$173,466	\$0	\$5,057	\$0	\$17,192	\$12,589	\$295,440
Task 4 - Environmental Documentation	\$87,501	\$18,016	\$110,952	\$0	\$47,558	\$0	\$57,143	\$321,171
Task 5 - Plans, Specifications and Estimates (PS&E)	\$1,364,587	\$423,673	\$0	\$75,840	\$0	\$161,281	\$120,508	\$2,145,889
Other Direct Costs (ODC)	\$23,219	\$70,215	\$7,000	\$38,748	\$68,516	\$7,700	\$0	\$215,398
	\$1,778,432	\$769,539	\$117,952	\$122,187	\$146,422	\$218,706	\$199,118	\$3,352,355

Exhibit C
DBE Forms

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: City of Montclair 2. Contract DBE Goal: 13%
 3. Project Description: Central Avenue Bridge Rehabilitation
 4. Project Location: Montclair, CA
 5. Consultant's Name: Higgan's Office Associates, Inc. 6. Firms Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DDC %
Geotechnical	6956	DBI Mechanics, Inc. 11475 3500 Skyway Street, S.L., B	3.6%
Environmental	36278	CP&C, Inc. 110 West 20th St. Columbus, IL 61909	4.3%
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION 7.9 %	
17. Local Agency Contract Number: <u>20-23</u>	18. Federal Aid Project Number: <u>6328(C15)</u>	19. Proposed Contract Execution Date: <u>4/8/2020</u>	
20. Consultant's Ranking after Evaluation: <u>1st</u>		Local Agency certifies that all DDC certifications are valid and information on this form is complete and accurate.	
<u>[Signature]</u> <u>3/26/20</u> <u>Nora Castillo</u> <u>907825794</u> <u>City Engineer</u>		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DDC is required. <u>[Signature]</u> <u>01/15/2020</u> 12. Proposer's Signature: <u>Michael Thomas</u> 13. Date 14. Proposer's Name: <u>Michael Thomas</u> 15. Phone: <u>714.356.3665</u> 16. Proposer's Title: <u>Principal</u>	

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 more information call (916) 854-4411 or TDD (916) 854-3300 or write Resource and Forms Management, 120 N Street, MS 39, Sacramento, CA 95814.

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: City of Montclair 2. Contract DBE Goal: 18%
 3. Project Description: Central Avenue Bridge Rehabilitation
 4. Project Location: Montclair, GA
 5. Consultant's Name: Biggs Cardoso Associates, Inc. 6. Type of Certified DBE: DB 7. Total Contract Award Amount: \$3,383,020
 8. Total Dollar Amount for ALL Subconsultants: \$1,577,160 9. Total Number of ALL Subconsultants: 6

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Geotechnical	6866	Earth Mechanics, Inc. 714-751-3829 17800 Rowhope Street, Suite B	\$122,167
Environmental	36278	GPA Consulting 310-792-2690 231 California St. El Segundo 90245	\$146,422
Local Agency to Complete this Section 20. Local Agency Contract Number: <u>20-23</u> 21. Federal Aid Project Number: <u>5326(018)</u> 22. Contract Execution Date: <u>4/5/2020</u>			14. TOTAL CLAIMED DBE PARTICIPATION \$268,608 7.8%
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.	
23. Local Agency Representative's Signature <u>Noel Castillo</u>	24. Date <u>3/28/2020</u>	15. Preparer's Signature <u>Michael Thomas</u>	16. Date <u>7/15/2020</u>
25. Local Agency Representative's Name <u>City Engineer</u>	26. Phone <u>908-825-8441</u>	17. Preparer's Name <u>Principa</u>	18. Phone <u>714.550.4660</u>
27. Local Agency Representative's Title:		19. Preparer's Title:	

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

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