

PROFESSIONAL SERVICES AGREEMENT
[Traffic Engineering Services – Citywide Active Transportation Plan]

THIS PROFESSIONAL SERVICES AGREEMENT (the “Agreement”) is made at Orange, California, on this _____ day of _____, 2025 (the “Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and MARK THOMAS & COMPANY, INC., a California corporation (“Contractor”), who agree as follows:

1. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to the reasonable satisfaction of City the services set forth in Exhibit “A,” which is attached hereto and incorporated herein by reference. As a material inducement to City to enter into this Agreement, Contractor represents and warrants that it has thoroughly investigated and considered the scope of services and fully understands the difficulties and restrictions in performing the work. The services which are the subject of this Agreement are not in the usual course of City’s business and City relies on Contractor’s representation that it is independently engaged in the business of providing such services and is experienced in performing the work. Contractor shall perform all services in a manner reasonably satisfactory to City and in a manner in conformance with the standards of quality normally observed by an entity provided such services to a municipal agency. All services provided shall conform to all federal, state and local laws, rules and regulations and to the best professional standards and practices. The terms and conditions set forth in this Agreement shall control over any terms and conditions in Exhibit "A" to the contrary. In addition, Contractor must adhere to the Mandatory Fiscal Federal Provisions and other Provisions as outlined in Exhibit “B”.

Larry Tay, City Traffic Engineer (“City’s Project Manager”), shall be the person to whom Contractor will report for the performance of services hereunder. It is understood that Contractor’s performance hereunder shall be under the supervision of City’s Project Manager (or his/her designee), that Contractor shall coordinate its services hereunder with City’s Project Manager to the extent required by City’s Project Manager, and that all performances required hereunder by Contractor shall be performed to the satisfaction of City’s Project Manager and the City Manager.

2. Compensation and Fees.

a. Contractor's total compensation for all services performed under this Agreement, shall not exceed THREE HUNDRED FORTY-NINE THOUSAND SEVEN HUNDRED EIGHTY-ONE DOLLARS and 00/100 (\$349,781.00) without the prior written authorization of City.

b. The above compensation shall include all costs, including, but not limited to, all clerical, administrative, overhead, insurance, reproduction, telephone, travel, auto rental, subsistence and all related expenses.

c. In addition to the scheduled services to be performed by the Contractor, the parties recognize that additional, unforeseen work and services may be required by City’s Project Manager. In anticipation of such contingencies, the sum of THIRTY-FIVE THOUSAND

DOLLARS and 00/100 (\$35,000.00) has been added to the total compensation of this Agreement. City's Project Manager may approve the additional work and the actual costs incurred by the Contractor in performance of additional work or services in accordance with such amount as City's Project Manager and the Contractor may agree upon in advance. Said additional work or services and the amount of compensation therefor, up to the amount of the authorized contingency, shall be memorialized in the form of an Amendment to Agreement approved by the City Manager on a form acceptable to the City Attorney. The Contractor agrees to perform only that work or those services that are specifically requested by the City's Project Manager. Any and all additional work and services performed under this Agreement shall be completed in such sequence as to assure their completion as expeditiously as is consistent with professional skill and care in accordance with a cost estimate or proposal submitted to and approved by City's Project Manager prior to the commencement of such services.

d. The total amount of compensation under this Agreement, including contingencies, shall not exceed THREE HUNDRED EIGHTY-FOUR THOUSAND SEVEN HUNDRED EIGHTY-ONE DOLLARS and 00/100 (\$384,781.00).

3. Payment.

a. As scheduled services are completed, Contractor shall submit to City an invoice for the services completed, authorized expenses and authorized extra work actually performed or incurred.

b. All such invoices shall state the basis for the amount invoiced, including services completed, the number of hours spent and any extra work performed.

c. City will pay Contractor the amount invoiced within thirty (30) days, but may withhold 10% of any invoice until all work is completed, which sum shall be paid within thirty (30) days of completion of the work and receipt of all deliverables

d. Payment shall constitute payment in full for all services, authorized costs and authorized extra work covered by that invoice.

4. **Change Orders.** No payment for extra services caused by a change in the scope or complexity of work, or for any other reason, shall be made unless and until such extra services and a price therefor have been previously authorized in writing and approved by City as an amendment to this Agreement. City's Project Manager is authorized to approve a reduction in the services to be performed and compensation therefor. All amendments shall set forth the changes of work, extension of time, and/or adjustment of the compensation to be paid by City to Contractor and shall be signed by the City's Project Manager, City Manager or City Council, as applicable.

5. **Licenses.** Contractor represents that it and any subcontractors it may engage, possess any and all licenses which are required under state or federal law to perform the work contemplated by this Agreement and that Contractor and its subcontractors shall maintain all appropriate licenses, including a City of Orange business license, at its cost, during the performance of this Agreement.

6. **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and not an employee of City. City shall have the right to control Contractor only insofar as the result of Contractor's services rendered pursuant to this Agreement. City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Contractor shall, at its sole cost and expense, furnish all facilities, materials and equipment which may be required for furnishing services pursuant to this Agreement. Contractor shall be solely responsible for, and shall indemnify, defend and save City harmless from all matters relating to the payment of its subcontractors, agents and employees, including compliance with social security withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. Contractor acknowledges that it and any subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of City, and that they shall not be entitled to any of the benefits or rights afforded employees of City, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

7. **Contractor Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, to bind City to any obligation whatsoever.

8. **Designated Persons.** Only those qualified persons authorized by City's Project Manager, or as designated in Exhibit "A," shall perform work provided for under this Agreement. It is understood by the parties that clerical and other nonprofessional work may be performed by persons other than those designated.

9. **Assignment or Subcontracting.** No assignment or subcontracting by Contractor of any part of this Agreement or of funds to be received under this Agreement shall be of any force or effect unless the assignment has the prior written approval of City. City may terminate this Agreement rather than accept any proposed assignment or subcontracting. Such assignment or subcontracting may be approved by the City Manager or his/her designee.

10. **Time of Completion.** Except as otherwise specified in Exhibit "A," Contractor shall commence the work provided for in this Agreement within five (5) days of the Effective Date of this Agreement and diligently prosecute completion of the work in accordance with the time period set forth in Exhibit "A" hereto or as otherwise agreed to by and between the representatives of the parties.

11. **Time Is of the Essence.** Time is of the essence in this Agreement. Contractor shall do all things necessary and incidental to the prosecution of Contractor's work.

12. **Reserved.**

13. **Delays and Extensions of Time.** Contractor's sole remedy for delays outside its control, other than those delays caused by City, shall be an extension of time. No matter what the

cause of the delay, Contractor must document any delay and request an extension of time in writing at the time of the delay to the satisfaction of City. Any extensions granted shall be limited to the length of the delay outside Contractor's control. If Contractor believes that delays caused by City will cause it to incur additional costs, it must specify, in writing, why the delay has caused additional costs to be incurred and the exact amount of such cost at the time the delay occurs. No additional costs can be paid that exceed the not to exceed amount stated in Section 2.a, above, absent a written amendment to this Agreement.

14. Products of Contractor. The documents, studies, evaluations, assessments, reports, plans, citations, materials, manuals, technical data, logs, files, designs and other products produced or provided by Contractor for this Agreement shall become the property of City upon receipt. Contractor shall deliver all such products to City prior to payment for same. City may use, reuse or otherwise utilize such products without restriction.

15. Equal Employment Opportunity. During the performance of this Agreement, Contractor agrees as follows:

a. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Contractor shall ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

b. Contractor shall, in all solicitations and advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law.

c. Contractor shall cause the foregoing paragraphs (a) and (b) to be inserted in all subcontracts for any work covered by this Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

16. Conflicts of Interest. Contractor agrees that it shall not make, participate in the making, or in any way attempt to use its position as a consultant to influence any decision of City in which Contractor knows or has reason to know that Contractor, its officers, partners, or employees have a financial interest as defined in Section 87103 of the Government Code. Contractor further agrees that it shall not be eligible to work as the design/build firm for the project that is the subject of this Agreement.

17. Indemnity.

a. To the fullest extent permitted by law, Contractor agrees to indemnify, defend and hold City, its City Council and each member thereof, and the officers, officials, agents and employees of City (collectively the “Indemnitees”) entirely harmless from all liability arising out of:

(1) Any and all claims under workers’ compensation acts and other employee benefit acts with respect to Contractor’s employees or Contractor’s subcontractor’s employees arising out of Contractor’s work under this Agreement, including any and all claims under any law pertaining to Contractor or its employees’ status as an independent contractor and any and all claims under Labor Code section 1720 related to the payment of prevailing wages for public works projects; and

(2) Any claim, loss, injury to or death of persons or damage to property caused by any act, neglect, default, or omission of Contractor, or person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages due to loss or theft sustained by any person, firm or corporation including the Indemnitees, or any of them, arising out of, or in any way connected with the work or services which are the subject of this Agreement, including injury or damage either on or off City’s property; but not for any loss, injury, death or damage caused by the active negligence or willful misconduct of City. Contractor, at its own expense, cost and risk, shall indemnify any and all claims, actions, suits or other proceedings that may be brought or instituted against the Indemnitees on any such claim or liability covered by this subparagraph, and shall pay or satisfy any judgment that may be rendered against the Indemnitees, or any of them, in any action, suit or other proceedings as a result of coverage under this subparagraph.

b. To the fullest extent permitted by law, and as limited by California Civil Code 2782.8, Contractor agrees to indemnify and hold Indemnitees harmless from all liability arising out of any claim, loss, injury to or death of persons or damage to property to the extent caused by its negligent professional act or omission in the performance of professional services pursuant to this Agreement.

c. Except for the Indemnitees, the indemnifications provided in this Agreement shall not be construed to extend any third party indemnification rights of any kind to any person or entity which is not a signatory to this Agreement.

d. The indemnities set forth in this section shall survive any closing, rescission, or termination of this Agreement, and shall continue to be binding and in full force and effect in perpetuity with respect to Contractor and its successors.

18. Insurance.

a. Contractor shall carry workers’ compensation insurance as required by law for the protection of its employees during the progress of the work. Contractor understands that it

is an independent contractor and not entitled to any workers' compensation benefits under any City program.

b. Contractor shall maintain during the life of this Agreement the following minimum amount of comprehensive general liability insurance or commercial general liability insurance: the greater of (1) Two Million Dollars (\$2,000,000) per occurrence; or (2) all the insurance coverage and/or limits carried by or available to Contractor. Said insurance shall cover bodily injury, death and property damage and be written on an occurrence basis.

c. Contractor shall maintain during the life of this Agreement, the following minimum amount of automotive liability insurance: the greater of (1) a combined single limit of Two Million Dollars (\$2,000,000); or (2) all the insurance coverage and/or limits carried by or available to Contractor. Said insurance shall cover bodily injury, death and property damage for all owned, non-owned and hired vehicles and be written on an occurrence basis.

d. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits which are applicable to a given loss shall be available to City. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor under this Agreement.

e. Each policy of general liability and automotive liability shall provide that City, its officers, officials, agents, and employees are declared to be additional insureds under the terms of the policy, but only with respect to the work performed by Contractor under this Agreement. A policy endorsement to that effect shall be provided to City along with the certificate of insurance. In lieu of an endorsement, City will accept a copy of the policy(ies) which evidences that City is an additional insured as a contracting party. The minimum coverage required by Subsection 18.b and c, above, shall apply to City as an additional insured. Any umbrella liability insurance that is provided as part of the general or automobile liability minimums set forth below shall be maintained for the duration of the Agreement.

f. Contractor shall maintain during the life of this Agreement professional liability insurance covering errors and omissions arising out of the performance of this Agreement with a minimum limit of Two Million Dollars (\$2,000,000) per claim. Contractor agrees to keep such policy in force and effect for at least five (5) years from the date of completion of this Agreement.

g. The insurance policies maintained by Contractor shall be primary insurance and no insurance held or owned by City shall be called upon to cover any loss under the policy. Contractor will determine its own needs in procurement of insurance to cover liabilities other than as stated above.

h. Before Contractor performs any work or prepares or delivers any materials, Contractor shall furnish certificates of insurance and endorsements, as required by City, evidencing the aforementioned minimum insurance coverages on forms acceptable to City, which shall provide that the insurance in force will not be canceled or allowed to lapse without at least ten (10) days' prior written notice to City.

i. Except for professional liability insurance coverage that may be required by this Agreement, all insurance maintained by Contractor shall be issued by companies admitted to conduct the pertinent line of insurance business in California and having a rating of Grade A or better and Class VII or better by the latest edition of Best Key Rating Guide. In the case of professional liability insurance coverage, such coverage shall be issued by companies either licensed or admitted to conduct business in California so long as such insurer possesses the aforementioned Best rating.

j. Contractor shall immediately notify City if any required insurance lapses or is otherwise modified and cease performance of this Agreement unless otherwise directed by City. In such a case, City may procure insurance or self-insure the risk and charge Contractor for such costs and any and all damages resulting therefrom, by way of set-off from any sums owed Contractor.

k. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to City, on behalf of any insurer providing insurance to either Contractor or City with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer may acquire against City by virtue of the payment of any loss under such insurance.

l. Contractor shall include all subcontractors, if any, as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor to City for review and approval. All coverages for subcontractors shall be subject to all of the requirements stated herein.

19. Termination. City may for any reason terminate this Agreement by giving Contractor not less than five (5) days' written notice of intent to terminate. Upon receipt of such notice, Contractor shall immediately cease work, unless the notice from City provides otherwise. Upon the termination of this Agreement, City shall pay Contractor for services satisfactorily provided and all allowable reimbursements incurred to the date of termination in compliance with this Agreement, unless termination by City shall be for cause, in which event City may withhold any disputed compensation. City shall not be liable for any claim of lost profits.

20. Maintenance and Inspection of Records. In accordance with generally accepted accounting principles, Contractor and its subcontractors shall maintain reasonably full and complete books, documents, papers, accounting records, and other information (collectively, the "records") pertaining to the costs of and completion of services performed under this Agreement. City and its authorized representatives shall have access to and the right to audit and reproduce any of Contractor's records regarding the services provided under this Agreement. Contractor shall maintain all such records for a period of at least three (3) years after termination or completion of this Agreement. Contractor agrees to make available all such records for inspection or audit at its offices during normal business hours and upon three (3) days' notice from City, and copies thereof shall be furnished if requested.

21. Compliance with all Laws/Immigration Laws.

a. Contractor shall be knowledgeable of and comply with all local, state and federal laws which may apply to the performance of this Agreement.

b. If the work provided for in this Agreement constitutes a “public works,” as that term is defined in Section 1720 of the California Labor Code, for which prevailing wages must be paid, to the extent Contractor’s employees will perform any work that falls within any of the classifications for which the Department of Labor Relations of the State of California promulgates prevailing wage determinations, Contractor hereby agrees that it, and any subcontractor under it, shall pay not less than the specified prevailing rates of wages to all such workers. The general prevailing wage determinations for crafts can be located on the website of the Department of Industrial Relations (www.dir.ca.gov/DLSR). Additionally, to perform work under this Agreement, Contractor must meet all State registration requirements and criteria, including project compliance monitoring.

c. Contractor represents and warrants that Contractor:

(1) Has complied and shall at all times during the term of this Agreement comply, in all respects, with all immigration laws, regulations, statutes, rules, codes, and orders, including, without limitation, the Immigration Reform and Control Act of 1986 (IRCA); and

(2) Has not and will not knowingly employ any individual to perform services under this Agreement who is ineligible to work in the United States or under the terms of this Agreement; and

(3) Has properly maintained, and shall at all times during the term of this Agreement properly maintain, all related employment documentation records including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor’s employees; and

(4) Has responded, and shall at all times during the term of this Agreement respond, in a timely fashion to any government inspection requests relating to immigration law compliance and/or Form I-9 compliance and/or worksite enforcement by the Department of Homeland Security, the Department of Labor, or the Social Security Administration.

d. Contractor shall require all subcontractors or subconsultants to make the same representations and warranties as set forth in Subsection 21.c.

e. Contractor shall, upon request of City, provide a list of all employees working under this Agreement and shall provide, to the reasonable satisfaction of City, verification that all such employees are eligible to work in the United States. All costs associated with such verification shall be borne by Contractor. Once such request has been made, Contractor may not

change employees working under this Agreement without written notice to City, accompanied by the verification required herein for such employees.

f. Contractor shall require all subcontractors or sub-consultants to make the same verification as set forth in Subsection 21.e.

g. If Contractor or subcontractor knowingly employs an employee providing work under this Agreement who is not authorized to work in the United States, and/or fails to follow federal laws to determine the status of such employee, that shall constitute a material breach of this Agreement and may be cause for immediate termination of this Agreement by City.

h. Contractor agrees to indemnify and hold City, its officers, officials, agents and employees harmless for, of and from any loss, including but not limited to fines, penalties and corrective measures City may sustain by reason of Contractor's failure to comply with said laws, rules and regulations in connection with the performance of this Agreement.

22. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California and Contractor agrees to submit to the jurisdiction of California courts. Venue for any dispute arising under this Agreement shall be in Orange County, California.

23. Integration. This Agreement constitutes the entire agreement of the parties. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by both parties. Any work performed which is inconsistent with or in violation of the provisions of this Agreement shall not be compensated.

24. Notice. Except as otherwise provided herein, all notices required under this Agreement shall be in writing and delivered personally, by e-mail, or by first class U.S. mail, postage prepaid, to each party at the address listed below. Either party may change the notice address by notifying the other party in writing. Notices shall be deemed received upon receipt of same or within three (3) days of deposit in the U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

“CONTRACTOR”

“CITY”

Mark Thomas & Company, Inc.
3200 El Camino Real, Suite 290
Irvine, CA 92602
Attn.: Zach Siviglia

City of Orange
300 E. Chapman Avenue
Orange, CA 92866-1591
Attn.: Larry Tay

Telephone: (916) 390-5131
E-Mail: Zsiviglia@markthomas.com

Telephone: (714) 744-5525
E-Mail: ltay@cityoforange.org

25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same

instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures.

IN WITNESS of this Agreement, the parties have entered into this Agreement as of the year and day first above written.

“CONTRACTOR”

MARK THOMAS & COMPANY,
INC., a California corporation

*By: 
Printed Name: Zach Siviglia
Title: President

*By: 
Printed Name: Matt Brogan
Title: Secretary

“CITY”

CITY OF ORANGE, a municipal corporation

By: _____
Daniel R. Slater, Mayor

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Natalie Adourian, City Attorney

***NOTE:** City requires the following signature(s) on behalf of the Contractor:
-- (1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR
-- The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to City.

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EXHIBIT “A”

SCOPE OF SERVICES

[Beneath this sheet.]

REQUEST FOR PROPOSAL NO. 25-26.03

FOR

CITY OF ORANGE

CITYWIDE ACTIVE TRANSPORTATION PLAN
HSIPL-5073(098); CIP#30247



Public Works

Issue Date
Thursday, July 31, 2025

Response Due Date/Time
Thursday, August 28, 2025 by 2:00 PM PT

CAUTION

THIS DOCUMENT MUST REMAIN INTACT

SECTION III

SCOPE OF WORK

RFP NO. 25-26.03

SECTION III: SCOPE OF WORK

The Active Transportation Plan (ATP) will update the existing Orange Bike Master Plan and outline concepts for high-priority projects aimed at improving walking and biking conditions. It will analyze socioeconomic, public health, and crash data to identify high-need areas, using technical analysis and extensive community engagement—particularly with disadvantaged groups—to shape recommendations.

The plan will serve as a strategic roadmap for identifying, prioritizing, and implementing pedestrian and bicyclist safety improvements within the City. It will also include non-infrastructure strategies focused on equity, engagement, evaluation, encouragement, and education. Based on these recommendations, the City will prioritize enhancements and develop conceptual cost estimates for implementation.

Designed as a living document, the plan will remain adaptable to evolving needs, ensuring that proposed projects align with future funding opportunities.

TASK A – PROJECT MANAGEMENT AND ADMINISTRATION:

Project management will be ongoing throughout the duration of the project. This task includes day-to-day project management, such as meetings, progress reports, tracking of schedules, invoicing, meeting minutes and agendas, and overall administration of the project.

(A.1) Kick-off Meeting - Consultant will attend and lead a project kick-off meeting with key City staff to initiate the project. At this meeting, the project team will discuss any modifications to the scope of work and budget, as well as determine immediate next steps for the project.

(A.2) Project Management & Monthly Reports - Consultant shall be responsible for providing all contract management throughout project development. Consultant will conduct and lead monthly progress meetings with the City team to provide updates on work activity and milestones and to discuss upcoming deliverables. Agendas, meeting minutes, notes, and action items will be prepared and distributed in a timely manner. Written progress reports will be submitted monthly to the City's Project Manager. All DBE forms and reporting as required by Caltrans LAPM, including Exhibits 17-F and 17-D.

(A.3) Project Schedule – Consultant shall establish a project schedule to include:

- A detailed schedule for all tasks identified in the scope of work
- Submittal milestones and City review periods
- Consultant shall update project schedule on a monthly basis

Task	Deliverables
A.1	<i>Kick-off Meeting Agenda, & Meeting Notes</i>
A.2	<i>Monthly Status Reports, Project Meetings, Agendas, Associated Meeting Notes & Invoices, DBE forms and required reporting</i>
A.3	<i>Project Schedule with outlined task and milestones</i>

TASK B – EXISTING CONDITIONS:

The consultant shall collect and analyze relevant data, plans, and policies to establish the existing conditions in the City of Orange for active transportation. This task will have several stages: Data Collection, Existing Conditions Mapping, Data Analysis, Development of a Key Location Report, and Review of the City's Existing Bike Master Plan.

(B.1) Data Collection – Consultant will conduct data collection to identify the existing modes of active transportation throughout the City along with pedestrian and bicyclist volumes, and Level of Traffic Stress (LTS) bikeway analysis. They will compile traffic, speed, public health, and socioeconomic data, also compile a list of future plans/improvements related to pedestrian or bicycle facilities. Consultant will conduct and report an inventory of on-street & off-street bike and pedestrian facilities, noting the general condition of the facilities including signage, as well as gaps and physical constraints. City staff will work with the Consultant to determine the data source and the time period of data to be utilized for the safety data evaluation.

(B.2) Collision Data – Consultant will compile data on the number and location of collisions resulting in serious injuries or fatalities suffered by bicyclists and pedestrians in the City, both in absolute numbers and as a percentage of all collisions and injuries Citywide. The Consultant shall do an in-depth analysis of collision data to identify collision factors and appropriate countermeasures. The Consultant will work with the City to create a "hot spot" analysis, or High Injury Network, to identify locations with high rates of bicycle and pedestrian collisions.

(B.3) Existing Conditions Mapping & Modeling – Develop mapping of existing bicycle, pedestrian, and trail facilities. Provide maps of key items such as land use data, collision analysis with high rates of bicycle and pedestrian collisions, LTS bikeway analysis, and the existing City's Bike Master Plan. Consultant will provide maps of equity related data which may include income, public health, and socioeconomic factors. Development of maps and figures that show existing conditions as gathered through the data collection. Data from Task B.1 and B.2 should be provided in graphics whenever possible, and each topic area should include a fact sheet that can be used for future outreach for implementation of projects and programs.

(B.4) Analysis Report with Key Locations – Consultant will develop an existing conditions report, which will include an overview of ongoing and future projects, along with a summary memo. This report will be incorporated into the Final Plan, providing a comprehensive summary of all data and analysis gathered in Task B, with the Maps incorporated into the report.

Task	Deliverables
B.1	• <i>Vehicle, pedestrian, and bicyclist volume counts Citywide</i> • <i>List of existing modes of active transportation throughout the City</i> • <i>List of future plans/improvements related to bike or pedestrian facilities in the City of Orange and bordering Cities</i> • <i>LTS bikeway analysis for existing bike lanes and routes Citywide</i> • <i>All data, reports, surveys, etc. related to the gathering of public health, and socioeconomic data</i>
B.2	• <i>Collision history for pedestrian or bicyclist related accidents Citywide</i> • <i>Collision history for the same segment as where the pedestrian or bicyclist accident occurred but for vehicle accidents without a pedestrian or bicyclist involved Citywide</i> • <i>Table for street segments outlining bicyclist or pedestrian related collisions, the vehicle related collisions, the severity suffered by the bicyclist or pedestrian, the collision factor, some countermeasures, and the percentage of pedestrian/bike collisions compared to total collisions.</i> • <i>A list of “hot spot” locations throughout the City with high rates of bicycle and pedestrian collisions</i>
B.3	• <i>Develop a map that shows existing modes of active transportation throughout the City including bicycle, pedestrian, and trail facilities</i> • <i>Develop a map of equity related data</i> • <i>Map of bicycle & pedestrian collision data showing “Hot Spots” or High Injury Analysis with Collision Factor</i> • <i>Level of Traffic Stress Map</i> • <i>Map showing key locations throughout the City</i>
B.4	• <i>Existing Conditions Report</i>

TASK C – NEEDS ASSESSMENT:

This task plays a vital role in developing the City’s Active Transportation Plan by identifying community needs and guiding improvements to enhance the City's active transportation network. The consultant shall prepare a preliminary assessment that will be used as a starting talking point for community and stakeholder outreach events. Community outreach events and stakeholder meetings will be organized and finalized in coordination with City of Orange staff to ensure alignment with project goals. A summary memorandum outlining all findings, recommendations, community input, and feedback will be prepared and submitted to the City.

(C.1) Preliminary Assessment – Consultant will develop an understanding of biking and walking needs in the City to prompt discussion and elicit responses from community and stakeholders. Analysis will include types of pedestrian improvements appropriate to the context of the City, potential on-street bike corridors to connect key destination and bordering City bike routes, proposed improvements resulting from the City Bike Master Plan, Wayfinding signage, and Educational programs. Recommendations for programs will round out the subtask, providing guidance to build on existing non-infrastructure efforts to educate, encourage, engage, and evaluate active transportation in the City of Orange.

(C.2) Community Outreach / Workshops – The consultant will provide a presentation of the key findings of the preliminary assessment and Task B and engage participants using a variety of tools to elicit input on need, including a PowerPoint Presentation, maps, figures, and discussion stations. The consultant and City staff will work together

to facilitate a series of meetings, outreach, and pop-up events throughout the community to engage the residents in an open discussion about active transportation. This will include, but is not limited to

- Online surveys and a mapping system that shows existing and potential future improvements for public input from the community.
- Providing up-to-date content of the project to a list of interested individuals and on the City’s website with a feedback response option.
- Social media, surveys, or web-based platforms for obtaining input from a broader spectrum of the community and to engage participants in dynamic outreach opportunities.
- Host three (3) workshops throughout the community with interactive and creative ways to receive input/feedback.
- Host four (4) pop-up booth presence at established community events or high activity locations within the City.

Consultant should consider low-tech and virtual options, ensuring promotion for these events to disadvantage/underserved community members for participation. Consultant shall ensure that relevant language translations are available for all material, events, presentations, announcements, and workshops. Consultant shall evaluate the methods and opportunities to engage with disadvantage community members through social, religious, and advocacy activities such as food banks or other social support systems.

(C.3) Stakeholder Engagement – Conduct focus meetings with key community stakeholders—including medical centers such as St. Joseph Hospital, UC Irvine Health, and the Orange County Health Care Agency, major employers, and Chapman University—to present preliminary assessment findings, share community feedback, and collect their insights. These discussions will help identify high-need areas within the community and foster collaboration on solutions to address the community’s needs.

(C.4) Summary Memorandum – The consultant will prepare a memorandum summarizing the results of the needs analysis, incorporating all feedback from public and stakeholder meetings. This document will highlight key findings related to walking and biking needs within the City, addressing both physical and non-physical challenges, as well as opportunities for improvement.

The consultant will assess current and future needs for bicyclists and pedestrians while analyzing trends in population growth, land use changes, and transportation demands. The findings summary will be developed in alignment with industry best practices and will identify needs, barriers, and gaps based on insights gathered through community engagement and public outreach. This memorandum will be incorporated as a chapter in the Draft and Final ATP.

Task	Deliverables
C.1	• <i>Report of Preliminary Assessment & figures, maps, tables, and graphs associated with the report</i>
C.2	• <i>Presentation, Agendas, Notes, and Summary of all public outreach events</i> • <i>Community feedback as given in the events, pop-ups, or online</i> • <i>All figures, maps, tables, and graphs associated with the events</i>
C.3	• <i>Presentation, Agendas, Notes, Summary of all stakeholder meetings</i> • <i>All figures, maps, tables, and graphs associated with the meetings</i>
C.4	• <i>Summary report of key findings from the public and stakeholder’s events and meetings.</i>

TASK D – DRAFT OF CITYWIDE ACTIVE TRANSPORTATION PLAN:

The consultant will develop an Administrative Draft Plan that consolidates findings, analysis, and concepts from previous tasks while documenting public outreach efforts and outcomes. This draft will also incorporate implementation strategies, outlining next steps, funding sources, project phasing, and potential partnerships to support execution.

(D.1) Draft Active Transportation Plan – Consultant will prepare an initial draft of the ATP to serve as an administrative version for City staff to review. There will be a minimum of three report submittals: 30%, 60%, and 90% submittal which shall incorporate the City’s previous submittal comments for the 60% and 90% drafts. The 90% submittal Citywide Active Transportation Plan will be presented at two (2) City Public hearings for feedback and input.

At a minimum, the document shall include the following sections,

- **Introduction** – Outlining the purpose of the document
- **ATP Policy Framework** – Defining long-term visions and policies for pedestrians and bicyclist.
- **Inventory of Existing Conditions** – Summarizing the findings and report from Task B
- **Summary of Needs Assessment** – Report key findings gathered in Task C
- **General Recommendations** – Develop general recommendations to improve active transportation across the City. This toolbox of suggestions should include non-infrastructure measures that enhance mobility, safety, and accessibility. A portion of these suggestions should align with Metrolink’s long term goals of improving first-last mile connections for commuters to access the regional rail network.
 - **Recommended Projects** - Recommend projects for active transportation, including biking and walking (table and maps format to be included) facilities based on public input at specific locations around the City.
- **The City’s Updated Bike Master Plan** – Outline the existing Bike Master Plan and the updates that will be incorporated into this document, including a map.
- **Project Prioritization List** - Organizes suggested ATP projects into tiers using a structured table format.
- **Support Programs** - Details initiatives for safety, education, promotion and encouragement, enforcement, and evaluation.

The 30% plan submittal should reflect meaningful progress and thoughtful development across each of the sections outlined above. While this is an early phase, the City expects a robust and well-articulated deliverable that clearly demonstrates the project’s direction and allows for constructive review and input.

(D.2) Draft of Financial Strategy– Develop grant-ready conceptual designs that can be utilized for future funding opportunities. Additionally, compile a detailed list of funding sources and grants that align with the proposed ATP, equipping the City with strategic funding options for implementation. The financial strategies shall be included in the 60% and 90% submittal. This shall be structured so that it may be incorporated into the final ATP.

(D.3) Draft of Cost Estimate – Based on the recommendations set forward in the draft ATP, the consultant will identify prioritize improvements and develop conceptual cost estimates for implementation. The cost estimate recommendations shall be included in the 60% and 90% submittal. This shall be structured so that it may be incorporated into the final ATP.

Task	Deliverables
D.1	• A 30% draft of the ATP to serve as an administrative version for City staff to review • A 60% draft of the ATP to serve as an administrative version for City staff to review • A 90% draft of the ATP to serve as an administrative version for City staff to review
D.2	• An initial draft of a financial strategy to serve as an administrative version for City staff to review
D.3	• Estimate of cost to implement findings

TASK E – CEQA REVIEW:

(E.1) Draft CEQA Document – Consultant will prepare the necessary CEQA document (i.e., Initial Study and Negative Declaration), and work with the City’s Planning Department to complete this task.

(E.2) Final CEQA Document – Consultant will incorporate any necessary revisions into the final version of the Initial Study and Negative Declaration for the ATP. Following adoption of the documents by City Council, consultant will prepare the Notice of Determination required under CEQA.

Task	Deliverables
E.1	• Evaluation Summary and Draft CEQA Document Preparation
E.2	• Final CEQA documents

TASK F – FINAL CITYWIDE ACTIVE TRANSPORTATION PLAN & BIKE MASTER PLAN:

(F.1) Draft Plan Presentation of Final ATP & Bike Master Plan – The consultant shall assist City staff in presenting the 90% submittal of the Active Transportation Plan in two (2) Public Hearings for adoption. The consultant should ensure that community representation from participants in the Community Workshop and events are presented in the meeting. This presentation shall also include the financial strategy and cost estimate pertaining to Task D.2 and D.3.

(F.2) Incorporate Feedback – Consultant will revise the draft final plan to address any staff, City Council and Commission comments and reflect final action taken on the document. The consultant shall submit a 95% submittal showing the incorporated feedback for the ATP, updated Bike Master Plan, the financial strategy, and the cost estimate, for City staff to review one last time.

(F.3) Final ATP & Bike Master Plan– Consultant will provide City staff with the final ATP plan that includes the updated Citywide Bike Master Plan, the financial strategy and the cost estimate.

Task	Deliverables
F.1	• <i>Presentation of 90% ATP at two (2) City Public Hearings</i> • <i>Report summarizing the outcome of the Public Hearings</i>
F.2	• <i>Submit a 95% draft of the Active Transportation Plan—including the updated Bike Master Plan, Financial Strategy, and Cost Estimate—incorporating feedback received from City Staff, City Council and Commission on the 90% submittal. This submittal shall indicate which changes have been made and be prepared for final review by City staff.</i>
F.3	• <i>Final submittal of ATP</i> • <i>Provide three (3) hard copies and an electronic file of the Final adoption of the City’s Active Transportation Plan along with the resolution.</i>

MISCELLANEOUS:

- 1) All deliverables shall be provided in hardcopy and electronic form. Electronic submittals shall be in PDF and Microsoft Word format. The City will accept electronic submittals for draft submittals but will require three (3) hardcopies and a PDF copy for final submittals.
- 2) All map files shall be submitted in ArcGIS Pro project or map package formats, in addition to the exported map images (either in .pdf or .jpeg format), see Attachment C for more information.
- 3) Meetings and coordination will be ongoing for the duration of the project and will provide for the necessary communications needed to ensure the project goals are met. The scheduled meetings do not preclude contractor or City Project Manager from calling for intermediate meetings to resolve issues at hand.
- 4) Selected Consultant shall provide insurance documents per the attached checklist within **10 days of notice of intent to award**. Consultant shall ensure insurance companies used are admitted to conduct insurance business along the lines of insurance supplied in the State of California and have a Best Guide rating of Grade A or better and Class VII or better.
- 5) Consultant shall submit progress payment invoices in an acceptable format. Progress payment invoices shall not be requested for periods of less than one month. Each invoice shall include a detailed progress report for the reporting month, all third-party invoices, schedule, support for costs incurred, and other backup documentation as requested by the City. Each invoice shall clearly identify the tasks worked on and percent complete. All costs accrued shall be broken down by task. All supporting documents for costs accrued shall be submitted as back-up. All payments for costs shall be made in arrears.
- 6) City will pay Contractor the amount invoiced within thirty (30) days. The contractor will receive payment for up to 90% of the task's total cost upon progress completion. The remaining 10% may be withheld until the task is fully completed and approved by City staff.
- 7) The project is federally funded and therefore subject to DBE requirements. The proposer shall be familiar with DBE requirements as defined in 49 CFR Part 26 and shall be required to submit DBE information required under the regulations. Refer to attached Exhibits 10-I, 10-O1, 10-O2, and 15-H in Appendix A.
- 8) The proposal shall include Exhibit 10-O1 “Consultant Proposal DBE Commitment” to demonstrate the contractor commitment to meet the DBE goal set by the City. If the DBE goal will not be met, proposal shall include documentation that a good faith effort was made to meet the contract goal. Refer to Caltrans LAPM Section 10.1.2 for DBE compliance requirements.



Proposal

CITYWIDE ACTIVE TRANSPORTATION PLAN

HSIPL-5073(098); CIP#30247

PREPARED FOR:

City of Orange
August 28, 2025



MARK THOMAS



August 28, 2025

City Clerk Office
Purchasing Officer: Wanda Alvarez
City of Orange
300 E. Chapman Avenue
Orange, California 92866

Dear Ms. Alvarez:

The City of Orange (City) is seeking a qualified firm to develop an Active Transportation Plan (Plan). Featuring conceptual design plans and an implementation plan, the Plan will create safer and more equitable streets that reduce bicyclist and pedestrian injuries while increasing mobility for all ages and abilities. Having prepared the Complete Streets Program Grant Application that is providing the funding for this project, no other firms understand the community needs like Mark Thomas & Company, Inc. (Mark Thomas). Below are a few key items that our team will bring to the project.

EXPERIENCE MATTERS. For the past 98 years, Mark Thomas has been providing planning and engineering solutions that meet agency and community needs. We have earned the reputation as award-winning industry experts in the planning and design of transportation mobility projects. We have an extensive track record in preparing bicycle and pedestrian transportation improvement plans, establishing and engaging many community outreach opportunities, and facilitating community-led planning efforts. We have provided these services for Orange County agencies, Cities of Westminster, Costa Mesa, Laguna Niguel, Santa Ana, and other local and regional agencies.

Mark Thomas' experience includes leading the development of regional bikeways in Orange County, preparation of the Transportation Master Plan for the Town of Paradise, providing planning services for the City of Irvine along South Yale Avenue to identify transportation solutions for San Lorenzo Valley Unified School District, and designing bikeway improvements in the City of Santa Ana.

ACTIVE TRANSPORTATION PLAN EXPERIENCE. While our experience covers a wide array of transportation projects, one of our key focus areas is the planning and design of active transportation projects that support community efforts to maximize walking and biking use. Our active transportation work experience extends to complete streets plans, local roadway safety plans and engineering guided by National Association of City Transportation Officials (NACTO), Caltrans Highway Design Manual (HDM), Caltrans Design Information Bulletin (DIB) 89 Class IV Bikeway Guidance, and other Complete Street guidelines.

We are actively planning and implementing bicycle and pedestrian enhancements throughout the state. This work involves analyzing current network deficiencies, reviewing traffic and safety data, coordinating programming, outreach with communities and stakeholders, facilitating public engagement, and developing feasible - yet impactful, and fundable solutions. We have in-depth knowledge of innovative planning concepts, comprehensive public engagement strategies, and cutting edge analytical methods that position clients for grant funding. We have significant public sector experience that translates to better understanding community needs. In addition, our key team members have several cycles of Caltrans Active Transportation Program experience, serving on program leadership roles at OCTA, SCAG, and Caltrans. In the past five years, Mark Thomas led grant applications that resulted in more than \$1.3 billion in funding for California public agencies. Our team continuously works with these agencies to ensure that grant, guidelines, requirements and reports are met.



MARK THOMAS AT A GLANCE

- » Official Name
 - Mark Thomas & Company, Inc.
- » Address
 - 3200 El Camino Real, Suite 290 Irvine, CA 92602
- » Principal Officers
 - Zach Siviglia, PE, QSD
President + Chief Executive Officer
 - Matt Brogan, PE
Principal + Executive Vice President
 - Sasha Dansky, PE, QSD
Principal + Executive Vice President
 - Dave Moritz, PLS
Principal + Executive Vice President
 - Shawn O'Keefe, PE, QSD
Principal + Executive Vice President
- » Type of Entity
 - California Corporation
- » 98 Years in Business
- » Federal Employer I. D. Number
 - 94-1451490

SERVICES PROVIDED

- » Civil Engineering
- » Construction Management
- » District Management
- » Grant Assistance
- » Land Surveying
- » Landscape Architecture & Urban Design
- » Planning
- » Structures Engineering



(949) 477-9000
3200 EL CAMINO REAL SUITE 290
IRVINE, CA 92602

MARKTHOMAS.COM



MARK THOMAS

DEDICATED PROJECT TEAM. Our project team has been at the forefront of active transportation planning, public outreach and engagement, and quick build implementation. Sam Sharvini, PTP will lead our team as the project manager and will be the primary point of contact. Sam will have direct responsibility for the services provided and will manage the day-to-day activities through completion. He will leverage over 11 years of experience planning, designing, and managing planning projects and will be supported by our team of in-house experts.

CERTIFICATE OF UNDERSTANDING. Mark Thomas certifies and acknowledges that the City assumes no responsibility for any understanding or representation made by any of its officers or agents during or prior to the execution of any Agreement resulting from this RFP unless:

- » Such understanding or representations are expressly stated in the Agreement; and
- » The Agreement expressly provides that the responsibility therefore is assumed by the City. Representations made but not so expressly stated and for which liability is not expressly assumed by the City in the Agreement shall be deemed only for the information of the Proposer.

STATEMENT OF COMPLIANCE WITH AGREEMENT'S ARTICLE/TERMS AND CONDITIONS. We verify that this proposal is in compliance with the RFP and have no exceptions to the proposed Sample Agreement.

DBE COMPLIANCE. We agree to comply with the DBE requirements of this project and commit to the 11% DBE participation we have proposed.

As an associate principal of Mark Thomas, I will be the responsible person to receive notices and am authorized to make legally binding commitments for the firm and negotiate a contract. There are no applicable limitations to my authority. Mark Thomas has no failures nor refusals to complete any contract we have had. We are neither totally nor partially owned by another business organization or individual that will be providing the services to meet the requirements of the proposal. We are willing and able to provide the required insurance coverage as set forth by the City's requirements within 10 calendar days of notification of selection for award of this Agreement. We have reviewed the City's Professional Services Agreement and agree to execute an Amendment to the On-Call Professional Services Agreement that we have in place. We have also received and reviewed "Addendum No 1" dated 8/19/2025. If you have any questions about the proposal please contact Sam Sharvini at (714) 308-9231 and via email at ssharvini@markthomas.com. Our mailing address for any mailed funds is our corporate headquarter at 2833 Junction Avenue, Suite 110, San Jose, CA, 95134. This proposal will remain valid for a period of 120 days. We look forward to continue working with the City.

Sincerely,

MARK THOMAS & COMPANY, INC.

Pat Somerville, PE
Transportation Division Manager +
Associate Principal

Sam Sharvini, PTP
Transportation Planning
Project Manager





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Appendix B: Non-Collusion Statement
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Appendix D: Additional Project Experience
Appendix E: Staff Hours Sheet

PROJECT UNDERSTANDING & APPROACH

PROJECT UNDERSTANDING

As part of Orange County Complete Streets Program (OCCSP), managed by the Orange County Transportation Authority (OCTA), the City of Orange was awarded federal funds to develop a Citywide Active Transportation Plan (ATP). The City of Orange ATP will update its current Bike Master Plan and outline concepts for high-priority projects aimed at improving walking and biking conditions throughout the city. It will analyze socioeconomic, public health, and crash data to identify high-need areas, using technical analysis and extensive community engagement—particularly with disadvantaged groups—to shape recommendations.

The ATP will serve as a strategic roadmap for identifying, prioritizing, and implementing pedestrian and bicyclist safety improvements within the City. It will also include non-infrastructure strategies focused on equity, engagement, evaluation, encouragement, and education. Based on these recommendations, the City will prioritize enhancements and develop conceptual cost estimates for implementation.

Since this will be the City's first ATP, it is crucial that the Plan establishes a comprehensive assessment of existing conditions and develops a realistic yet ambitious path to short-term and long-term improvements. The ATP development process will:

- » Inventory existing active transportation infrastructure, programs and policies.
- » Identify active transportation deficiencies pertaining to infrastructure, programs and policies.
- » Conduct a robust and strategic public engagement process that captures input from a wide range of stakeholders.
- » Establish a list of prioritized improvements based on technical assessments, public input and industry best practices.
- » Develop project concepts and cost estimates for grant funding, and for integration into the City's Capital Improvement Projects list.

The Mark Thomas team is based in Orange County. Our familiarity with the City's transportation network and community priorities, combined with professional expertise, enables us to develop a plan that reflects the City's identity, address its most pressing mobility challenges, and build community ownership of the ATP.

PROJECT OBJECTIVES

Conduct a Robust Stakeholder Engagement Process

The success of the ATP begins with meaningful and effective outreach that brings diverse community stakeholders into the project development process and directly shapes recommendations. Mark Thomas and Arellano Associates will lead the ATP development process to maximize community input through implementation of multi-faceted strategies and platforms, incorporating a mix of digital and in-person opportunities. These activities will be designed to capture meaningful feedback through creative and engaging activities that demonstrate the benefits of active transportation, including interactive mapping, online surveys, workshops, pop-up events, and focus group meetings. The engagement process will incorporate language and topics that better resonate with the community, avoiding complex technical language often used in public engagement and framing the discussion in terms of comfort, safety, and convenience.

Align with Local & Regional Transportation Priorities

The ATP will align with local community plans, such as the objectives from the City's 2024 Sustainability Plan to advance greenhouse gas (GHG) reduction goals and promote the expansion of bike trails to encourage cycling as a viable and environmentally friendly mode of travel. In coordination with regional priorities, the ATP will support Metrolink's 2021 Strategic Business Plan to strengthen first-last mile connections to the regional rail network and advance the implementation of high-priority bikeways identified in OCTA's OC Active report. The Plan will also promote bikeway projects recommended in the OCTA OC Loops final report, ensuring City priorities contribute to countywide efforts to establish a safe and connected active transportation system.



Mark Thomas providing training to community members to conduct walk audits in Santa Ana.

Prepare for Funding Success & Implementation

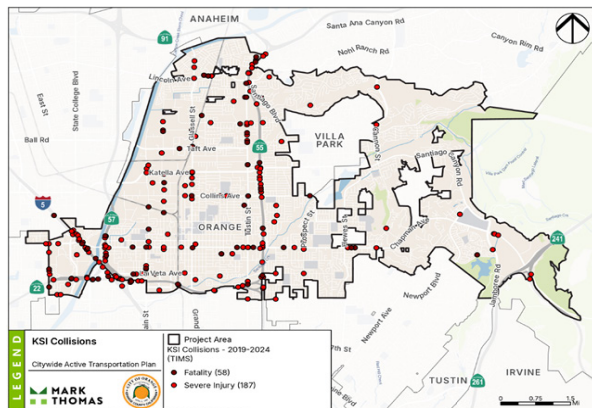
Preparation of the Citywide ATP will include dynamic and robust engagement with public audiences and agency stakeholders. Our collaborative approach will empower the City to prioritize key improvements and position for successful grant funding pursuits such as the Orange County Transportation Authority (OCTA) Complete Streets Program (CSP), the State of California Active Transportation Program, and the Federal Safe Streets and Roads for All (SS4A). The state's ATP and SS4A funding programs have requirements that an Active Transportation Plan satisfy specific checklist requirements. The City's ATP will be completed to demonstrate compliance with the state ATP & SS4A requirements, providing eligibility for implementation, planning, and demonstration grant pursuits.

PROJECT APPROACH KEY ISSUE & CHALLENGES

Collisions and Fatalities

Issue: Active transportation users currently face disproportionate safety risks in Orange. Despite accounting for nearly 4% of commuting trips, pedestrians and cyclists are involved in 10% of traffic collisions and 40% of traffic fatalities. Fatality rates for these users (4.3%) are more than triple the citywide average (1.2%), and severe injury rates (13.1%) are more than double (5.7%). The rapid rise in e-bike and e-scooter use across the community also introduces new safety challenges.

Solution: The ATP will apply a data-driven approach, informed by community input, to identify priority corridors that address both traditional and emerging safety issues. Recommendations will include both infrastructure and non-infrastructure strategies designed to reduce collisions, improve perceptions of safety, and encourage more residents to walk and bike.



Mark Thomas has already evaluated the active transportation collisions with Orange.

Community Perceptions of Active Transportation

Issue: There may be limited knowledge of active transportation impacts and benefits, thus a general lack of demand from the community. The level of community interest may affect the attendance at community workshops. Competing local priorities may also lead residents to view active transportation as a lower priority.

Solution: We will design and implement interactive and educational engagement activities, which may include interactive mapping and visual storytelling, to illustrate the social, physical, economic, and environmental benefits of active transportation. Workshops will go beyond standard presentations by incorporating interactive sessions that make technical concepts accessible and compelling to the public, including seniors, youth, and residents with limited formal education.

Representative Community Engagement

Challenge: In some cases, the most vocal participants in the room can influence the direction of the project. Traditional engagement strategies such as community workshops may not capture a complete representation of the community. Participation must reflect geographic, demographic, and socioeconomic diversity, rather than self-selected attendees.

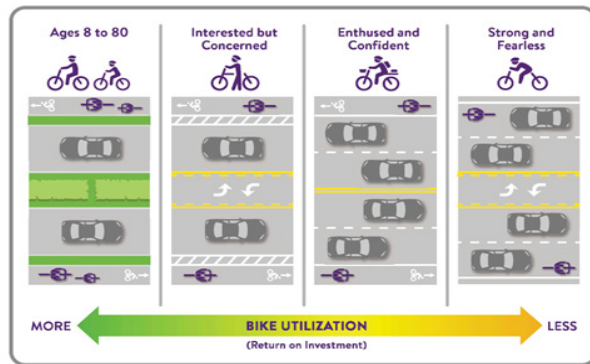
Solution: We will prepare a community engagement plan with effective strategies that produce meaningful feedback through a mix of digital and in-person strategies. We will collaborate with City staff to identify key stakeholder groups and tailor outreach to historically underrepresented populations.

THE MARK THOMAS APPROACH

Reflect the "Interested-but-Concerned" Potential

While fewer than 4% of City residents currently walk or bike to work, our approach will focus on engaging the population who is "interested-but-concerned". Generally 40% of the population of this demographic would consider biking if conditions felt safer. Our approach focuses on the potential of an implementation process that converts the "interested but concerned" to a more "enthused and confident" cyclist.

The implementation process will align with the "8 to 80" philosophy—the idea that if the transportation system works for an 8-year-old and an 80-year-old, it will work for everyone. This inclusive approach ensures that infrastructure is intuitive, safe, and accessible for all ages and abilities.



Leverage Existing Active Transportation Infrastructure

The ATP will establish a safe and accessible active transportation network that connects residents to key destinations. The Plan will build upon the existing bicycle system by identifying and prioritizing high-need corridors for future investment. The Plan will focus on addressing barriers by identifying spot improvements, first/last-mile connections, safe crossings, and neighborhood connectors that link directly to the regional trail system.

Leveraging the Santa Ana River Trail and Santiago Creek Trail presents a unique opportunity to extend active transportation infrastructure across Orange, substantially improving access to jobs, schools, recreation, shopping, and social destinations. It's important to include an all-ages-and-abilities, low-stress on-street network connecting trails to major destinations. This also helps attract "interested but concerned" and provides high quality safe routes to school.

Mark Thomas will apply a data-driven approach, informed by community input, to identify priority corridors and projects. Recommendations will include both infrastructure and non-infrastructure strategies designed to reduce collisions, improve perceptions of safety, and encourage more residents to walk and bike throughout the City.

Develop ATP with Short-Term Project Funding Efforts in Mind

The ATP will position the City to receive grant funding for implementation, incorporating a prioritized project list, funding opportunity matrix, strategic public engagement, concept development, and cost estimates. Mark Thomas will develop the prioritized project list that will represent the outcome of community discussion, data-based analysis, and best practices. To support near-term implementation, the ATP will also emphasize quick-build projects as a cost-effective interim strategy. These projects allow the City to deploy improvements inexpensively and rapidly, creating visible progress while pursuing funding for more permanent hardscape upgrades.

We will develop the funding opportunity matrix to identify all grant opportunities and local funding to plan and coordinate funding pursuits. The public engagement process will ensure that community input informs both the ATP and the specific projects anticipated for the next Active Transportation Program cycle. The concept development and costs will deliver details and specifications that prime the projects for funding awards and implementation.



Mark Thomas is assisting the City of Santa Monica to implement the East Pico Boulevard Quick Build Safety Project from Stewart Street/28th Street to Centinela Avenue for SCAG

SCOPE OF WORK

TASK A – PROJECT MANAGEMENT & ADMINISTRATION

The Mark Thomas Project Manager (PM), Sam Sharvini, will communicate directly with City staff and manage the internal project team for project delivery. Project management will be ongoing throughout the duration of the project. This task includes day-to-day project management, such as meetings, progress reports, tracking of schedules, invoicing, meeting minutes and agendas, and overall administration of the project.

(A.1) Kick-off Meeting

The project kick-off meeting commences with the project development, convening City staff and Mark Thomas to chart the critical path of a successful ATP development process. Mark Thomas will develop a meeting agenda for review by City staff and facilitate an agenda-guided discussion to clarify ATP goals, confirm the project scope of work, schedule, key milestones, invoicing process, communication protocols, and other City expectations. We assume the project kick-off meeting will be conducted virtually via a Mark Thomas provided video conference link.

At the kick-off meeting we will discuss grant-required goals for community engagement and confirm the project approach to data collection and analysis, mapping outputs, and associated deliverables and reports. We will also discuss key stakeholders for involvement in the project that represent typically underrepresented and underserved populations. Following the kick-off meeting, we will prepare meeting minutes, and data needs memorandum and public engagement plan based on the direction and feedback provided from City staff.

(A.2) Project Management & Monthly Reports

Mark Thomas will be responsible for providing all contract management throughout project development. Project management responsibilities will include preparing and submitting monthly progress reports and invoices for the City's review and approval. Each progress report will detail:

- » Work completed during the reporting period
- » Upcoming work for the next period.
- » Project schedule and scope status
- » Challenges and proposed solutions

Written progress reports will be submitted monthly to the City's Project Manager. All DBE forms and reporting as required by Caltrans LAPM, including Exhibits 17-F and 17-D.

Mark Thomas will facilitate monthly project meetings to provide updates on work activity and to discuss upcoming deliverables. Agendas, meeting minutes, notes, and action items will be prepared and distributed in a timely manner. Throughout the project's duration, Mark Thomas will host monthly Project Teams Meetings via a Mark Thomas provided video conference link. The video conference is recommended for a screenshare opportunity where meeting notes are recorded in real-time to document discussion and establish clear action items. The frequency of status meetings is intended to maintain a conversational approach to delivering the project and to quickly secure guidance and direction on project elements to deliver the project consistent with the proposed schedule.

(A.3) Project Schedule

Mark Thomas will prepare a Project Management Plan (PMP) to serve as a framework for managing project deliverables and will include team contacts, communication protocols, schedules, scope, and key milestones.

As part of the PMP, the project schedule will:

- » Provide a detailed schedule for all tasks identified in the scope of work
- » Establish submittal milestones and City review periods
- » Be updated monthly by Mark Thomas to reflect progress and maintain alignment with project goals

DELIVERABLES

A.1:

- » Kick-off Meeting (Agenda, & Meeting Notes)

A.2:

- » Status Reports and Invoices (Assume Monthly)
- » Project Meetings (Agendas and Meeting Notes; assume monthly)
- » DBE Forms and required reporting

A.3:

- » Project Management Plan including Project Schedule with outlined task and milestones

TASK B – EXISTING CONDITIONS

Mark Thomas will collect and analyze relevant data, plans, and policies to establish the existing conditions in the City of Orange for active transportation. This task will have several stages: Data Collection, Existing Conditions Mapping, Data Analysis, Development of a Key Location Report, and Review of the City's Existing Bike Master Plan.

(B.1) Data Collection

The Plan will build upon existing local, countywide, and regional transportation safety plans, policies, programs, and initiatives to ensure alignment with ongoing planning efforts relevant to and impacting the City. The Mark Thomas team will conduct a thorough review of transportation-related documents relevant to the City, including but not limited to:

- » City of Orange General Plan Circulation & Mobility Element
- » City of Orange Sustainability Plan
- » City of Orange Specific Plans (Chapman University, Upper Peters Canyon, Santa Fe Depot)
- » City of Orange Depot-Plaza Pedestrian Connection Study
- » City of Orange Trails and Bikeways Master Plan
- » Orange County Transportation Authority OC Active
- » Orange County Public Works On the Move
- » Orange County Countywide Master Plan of Arterial Highways
- » Caltrans District 12 Active Transportation Plan
- » California Strategic Highway Safety Plan (SHSP)
- » Caltrans Local Roadway Safety Manual
- » Caltrans Standard Plan

Based on the literature review, Mark Thomas will compile a list of future plans, improvements, or investments related to pedestrian or bicycle facilities within the City of Orange and bordering Cities.

Mark Thomas will collect key data sets related to traffic, speed, public health, and socioeconomic. The data will be mapped using Geospatial Information Systems (GIS) software for the Project Area defined as citywide.)

Mark Thomas will conduct and report an inventory of on-street & off-street bike and pedestrian facilities, noting the general condition of the facilities including signage, as well as gaps and physical constraints.

Bicycle Facility Level of Stress (LTS)

Mark Thomas will prepare a Bicycle Facility Level of Stress (LTS) analysis using data collected to demonstrate the comfort level of cyclists on the network. The LTS analysis has been standardized within the industry to help demonstrate that a Class II striped bikeway may still be intimidating and stressful for many potential cyclists when adjacent high-speed traffic. The LTS analysis will account for the bikeway facility type, number of traffic lanes, posted speed limit, presence of on-street parking, and other assessments as determined appropriate in discussions with the City.

Pedestrian and Bicycle Counts

Mark Thomas will coordinate with the City to develop a Trip Count Plan, which will identify count locations, dates, times, and other higher-detailed methodology as necessary. We propose conducting active transportation counts at 15 intersections and 5 off-street locations, with an emphasis on collecting detailed data such as demographics and behaviors (e.g., gender, age, helmet use) during a 24-hour period. If more than 20 locations

are desired, we can adjust the approach by either reducing the duration of counts to 12-hour periods, or limiting the level of detail collected. Counts will be collected on a typical weekday period for a specified number of hours to determine peak periods. Traffic counts will cover multiple modes such as motor vehicle traffic, trucking, buses, and people walking, cycling, scootering, and using mobility assistance devices.

Data from the counts will be collected and analyzed, reflecting outcomes both in absolute numbers and as a percentage of all mode trips. We plan to confirm assumptions with City staff before commencing with the data collection.

(B.2) Collision Data

Mark Thomas will analyze TIMS data to identify collision locations involving injuries and fatalities that inform project development and prioritization. City staff will work with Mark Thomas to determine the data source and the time period of data to be utilized for the safety data evaluation. Our Team will compile data on the number and location of collisions resulting in serious injuries or fatalities suffered by bicyclists and pedestrians in the City, both in absolute numbers and as a percentage of all collisions and injuries Citywide. Based on this data, we will prepare an in-depth collision analysis to identify collision factors and appropriate countermeasures. This analysis will culminate in a "hot spot" analysis, or High Injury Network, to identify locations with high rates of bicycle and pedestrian collisions. In Task B.3, we will produce maps that identify collision locations involving injuries and fatalities to support the collision data analysis.

(B.3) Existing Conditions Mapping & Modeling

Mark Thomas will prepare a comprehensive set of maps and figures that visually communicate the City's existing conditions. These maps will consolidate data collected in Tasks B.1 and B.2 into accessible graphics, providing a strong foundation for analysis, community engagement, and project development.

The mapping effort will focus on existing bicycle, pedestrian, and trail facilities, along with key contextual information such as land use, transit service, and demographic data. In addition, we will illustrate safety concerns by mapping bicycle- and pedestrian-involved collisions, conducting a Level of Traffic Stress (LTS) analysis of the bikeway network, and reviewing consistency with the City's existing Bike Master Plan.

To support the City's planning, equity, and outreach goals, mapping will incorporate multiple data sources, including:

- » **Mobility Data:** Average Daily Traffic (ADT) volumes, bicycle and pedestrian counts, existing and planned bikeways, roadway classification, and transit routes/stops.
- » **Safety Data:** Five years of state-published collision data (UC Berkeley TIMS) with a focus on bicycle and pedestrian safety.
- » **Demographic and Land Use Data:** Mode share, existing and proposed land uses, housing development patterns, and zoning.

- » **Equity and Public Health Data:** CalEnviroScreen, Healthy Places Index, National School Lunch Program eligibility, median household income, Climate and Economic Justice Screening Tool, Equitable Transportation Community Explorer, and Priority Equity Communities.

Each topic area listed above will be presented as both a map and a fact sheet, designed for use not only in technical evaluation but also in public-facing outreach materials. Fact sheets will highlight key findings, opportunities, and challenges in clear and visual formats to help stakeholders and community members understand the importance of existing conditions and their role in shaping future improvements.

This robust mapping and fact sheet library will create a visual baseline of conditions, provide a clear rationale for future recommendations, and serve as a long-term resource for the City as it pursues implementation of ATP projects and programs.

(B.4) Analysis Report with Key Locations

Mark Thomas will develop an existing conditions report, which will include an overview of ongoing and future projects, along with a summary memo. This report will be incorporated into the Final Plan, providing a comprehensive summary of all data and analysis gathered in Task B, with the Maps incorporated into the report.

DELIVERABLES

B.1:

- » Vehicle, pedestrian, and bicyclist volume counts Citywide based on approved Trip Count Plan
- » List of existing modes of active transportation throughout the City
- » List of future plans/improvements related to bike or pedestrian facilities in the City of Orange and bordering Cities
- » LTS bikeway analysis for existing bike lanes and routes Citywide
- » All data, reports, surveys, etc. related to the gathering of public health, and socioeconomic data

B.2:

- » Collision history for pedestrian or bicyclist related accidents Citywide
- » Collision history for the same segment as where the pedestrian or bicyclist accident occurred but for vehicle accidents without a pedestrian or bicyclist involved Citywide
- » Table for street segments outlining bicyclist or pedestrian related collisions, the vehicle related collisions, the severity suffered by the bicyclist or pedestrian, the collision factor, some countermeasures, and the percentage of pedestrian/bike collisions compared to total collisions.

- » A list of "hot spot" locations throughout the City with high rates of bicycle and pedestrian collisions

B.3:

- » Develop a map that shows existing modes of active transportation throughout the City including bicycle, pedestrian, and trail facilities
- » Develop a map of equity related data
- » Map of bicycle & pedestrian collision data showing "Hot Spots" or High Injury Analysis with Collision Factor
- » Level of Traffic Stress Map
- » Map showing key locations throughout the City

B.4:

- » Existing Conditions Report

TASK C – NEEDS ASSESSMENT

Mark Thomas will prepare a Preliminary Assessment that establishes a clear understanding of the City's active transportation needs and sets the stage for meaningful dialogue with stakeholders and the public. Community outreach events and stakeholder meetings will be coordinated with City of Orange staff to confirm alignment with project goals and ensure a transparent and inclusive process. Mark Thomas will lead engagement activities, with support by Arellano Associates, to present findings in clear, accessible formats that prompt discussion and capture local input.

(C.1) Preliminary Assessment

Mark Thomas will develop the Preliminary Assessment by analyzing both infrastructure and non-infrastructure needs and aspirations of the City's active transportation system. The Preliminary Assessment will guide the City and its stakeholders in understanding existing conditions and identifying priority improvements that respond to local needs.

The analysis will:

- » Evaluate pedestrian improvements appropriate to different contexts across the City.
- » Identify potential on-street bicycle corridors that connect key destinations and link with neighboring city routes.
- » Incorporate proposed improvements from the City's Bike Master Plan to build on existing planning efforts.
- » Assess opportunities for wayfinding signage to improve user navigation and visibility of the network.
- » Recommend educational and programmatic strategies that promote safe active transportation, building on the City's existing non-infrastructure initiatives.

PEDESTRIAN IMPROVEMENTS PRIORITIZATION SCORING



RANK	LOCATION	IMPROVEMENT	TOTAL WEIGHTED SCORE (100 POINTS)	KEY CONSIDERATIONS & PROJECT INFORMATION
1	Paseo de Colinas at Camino Capistrano	 CROSSING	87.5	- Closes a gap in the sidewalk network on Paseo de Colinas - Received input through community engagement activities - Identified to have minimal construction challenges - Provides access to key destinations, including retail uses along Camino Capistrano
2	Forbes Road at Laguna Niguel/Mission Viejo Metrolink Station Entrance	 CROSSING	82.5	- Closes with a gap in the sidewalk network on Forbes Road - Identified to have minimal construction challenges - Provides access to key destinations, including the Laguna Niguel / Mission Viejo Metrolink Station and Oso Creek Trail - Currently in design phase of the Oso Creek Trail Active Transportation Enhancements Project, including Forbes Road
3	La Paz Road at Avila Road	 CROSSING	75	- Received input through community engagement activities - Identified to have minimal construction challenges - Provides access to key destinations, including retail and office uses along La Paz Road and Avila Road - Located within a low-income job density area
4	La Paz Road at Avenida Breve	 CROSSING	75	- Received input through community engagement activities - Identified to have minimal construction challenges - Provides access to key destinations, including retail and residential uses along La Paz Road - Located within a low-income job density area
5	Crown Valley Parkway Forbes Road to I-5 Southbound Off-Ramp	 SIDEWALK	70	- Identified as a top priority through community engagement - Closes a gap in the sidewalk network on Crown Valley Parkway - Provides access to key destinations, including retail and residential uses along Crown Valley Parkway - This segment may have significant construction challenges

Mark Thomas will synthesize these findings into recommendations that provide a framework for both infrastructure investment and program development. The resulting Preliminary Assessment will serve as a tool to support community conversations, inform outreach activities, and shape strategies that advance the City's long-term active transportation goals.

(C.2) Community Outreach / Workshops

Mark Thomas and Arellano Associates will lead a multi-faceted outreach program to share key findings from the Preliminary Assessment (Task C.1) and Existing Conditions Analysis (Task B), while eliciting meaningful feedback from the community.

Together with City staff, the project team will design and deliver engagement activities that include:

- » **Three (3) online surveys and maps** distributed at key milestones to gather feedback on existing conditions, community needs and proposed improvements.
- » **Project updates shared on multiple platforms**, such as project webpage, City website, and eblasts to stakeholders.
- » **Social media and digital platforms** to engage a broader spectrum of the community, with links directing participants to provide input via the project website.
- » **Three (3) interactive community workshops** held at key milestones to collect public input on existing conditions, community needs and proposed improvements.
- » **Four (4) pop-up booths** at community events or high-activity locations to reach residents who may not attend traditional city meetings or workshops.

Project Branding and Collateral Materials

Mark Thomas will develop comprehensive project branding that ensures consistency across all materials, including project fact sheet, flyers, presentation templates, display boards, and digital content. Branding will be reviewed and approved by the City and applied to all digital and print outreach tools. Arellano Associates will provide Spanish translations as needed.

- » **Project fact sheet:** A concise, visually engaging fact sheet will provide an overview of the project, key goals, a project map, and contact information. It will be distributed electronically, shared at workshops, events, and pop-up activities, and provided to key stakeholders for posting on their websites and social platforms.
- » **Flyers:** Mark Thomas will prepare visually engaging flyers for promoting workshops and online surveys. Flyers to be distributed both digitally and in-person at community centers, libraries, schools, and other local hubs to promote engagement opportunities.
- » **Meeting presentations and display boards:** Mark Thomas will prepare presentation materials and display boards for stakeholder and community meetings. These materials will be designed for both in-person and virtual formats and include interactive elements such as QR codes linking to online surveys.
- » **Website content and social media:** Mark Thomas will draft engaging content for the project webpage and external social media channels, highlighting engagement opportunities such as surveys, workshops, and pop-ups. Mark Thomas will coordinate with the City to ensure timely posting on the project website, and City's social media accounts Facebook, Instagram, X, and Nextdoor.

Project Website and Digital Engagement

Per the City's approval, Mark Thomas can develop and host a dedicated project website, linked from the City's main website, to serve as the central hub for project information and public engagement. We recommend using ArcGIS StoryMap or a similar platform to integrate mapping, visuals, and narrative content in a way that is engaging and user-friendly. The website will highlight project goals, upcoming events, key documents, and project milestones, while also including interactive features such as surveys to capture public feedback. The project website will also include a public input intake form to gather general comments throughout the planning process. Mark Thomas will manage the site's content and updates, ensuring that all project materials are posted in a timely and accessible manner.

We will also coordinate with City staff to maintain an email distribution list, ensuring that stakeholders receive project updates, and meeting invitations directly. To broaden outreach, Mark Thomas will prepare graphics and event announcements tailored for the City's social media platforms (Facebook, Instagram, X, and Nextdoor). Posts will be coordinated with project milestones and community engagement activities to maximize visibility and participation. Together, these digital tools will ensure that the project is accessible, transparent, and responsive to community input.

Online Surveys & Interactive Mapping

Mark Thomas and Arellano Associates will collaborate to develop up to three online surveys, aligned with each project phase, to gather input on travel behaviors, safety concerns, opportunities for improvement, and feedback on proposed projects. Surveys will be bilingual (English and Spanish), available online via the project website, and promoted through digital geo-targeted ads. An interactive online mapping platform can also be leveraged, if appropriate, to enable community members to identify specific locations of need for future improvements.

The survey will gather feedback on existing conditions, community needs, and proposed improvements. A benefit of online surveys is their ability to capture input from residents who may not attend a workshop or in-person event. To ensure consistency, the surveys will mirror the questions asked at community workshops, allowing results to be combined into a single dataset for analysis.

This approach ensures that online surveys and interactive mapping not only supplement in-person engagement but also generate quantifiable, location-specific data that directly supports project prioritization and grant-ready documentation.

Community Workshops

Community workshops provide a forum for residents and stakeholders to learn about the project and provide input to influence the final product. Mark Thomas and Arellano

Associates will coordinate with the City to host up to three (3) interactive workshops. We recommend that community workshops be implemented at several points of the Project development process to engage the community at key phases. Workshops may incorporate interactive activities to engage diverse participations such as mapping exercises, break-out discussion groups, or walking tours. Workshops may also adopt an "Open House" format, if deemed appropriate. The workshops will take place in person unless the City requests otherwise.

Community Workshop #1. The first community workshop shall take place during the early stages of the Project and before finalizing the existing conditions analysis. The proposed community workshop agenda shall include an introduction of the Project, the benefits of active transportation, an overview of existing conditions, and a facilitated discussion of the city's issues and opportunities to improve the active transportation network.

Community Workshop #2. The second workshop will serve as an opportunity to share the findings from the existing conditions analysis, review the findings from the Preliminary Assessment, and introduce potential concepts for pedestrian improvements and on-street bicycle corridors that connect key destinations and link with neighboring city routes. Community members will be encouraged to share their input on the findings and identify potential non-infrastructure and infrastructure network recommendations. Additional supporting materials that may be appropriate at this workshop can include before-and-after visuals and design concepts to help participants visualize proposed improvements.

Community Workshop #3. The third community workshop will take place before the final presentations to the Commission and City Council. The workshop will serve as an opportunity to share the draft project list and project rankings, and elements of the Draft Financial Strategy (Task D2). Participants may review proposed projects and prioritization results through engaging visuals and clear summaries. Community members will be encouraged to provide feedback on the draft rankings, helping to validate priorities and confirm community-supported projects for advancement. This input will guide final refinements to the project list and ensure that prioritized projects are ready to move forward into conceptual design and cost estimating.

The workshops will include bilingual materials and inclusive facilitation to ensure participation from a diverse cross-section of residents. An online survey will serve as an alternative to gathering information from community members unable to attend a workshop. Subject to funding constraints, we will provide light refreshments at the workshop and childcare to help increase attendance by parents and youth guardians.

Mark Thomas and Arellano Associates will promote the community workshops through a coordinated outreach campaign, including social media posts, project website updates, and e-blasts to stakeholders for distribution within their networks. To ensure broad participation, especially from disadvantaged and underserved communities, Mark Thomas will also distribute hard-copy flyers at key community locations, such as the Orange Senior Center, Orange Public Library, and at local events including the food drives at North Orange Christian Church.

Pop-Up Events

Established public events offer access to the casual civic participant who would likely not attend a community workshop. As a result, their input from pop-up events is extremely valuable as it elicits feedback from respondents who may not already have an interest in bicycling or walking more. Pop-up event feedback can highlight needed changes for the average road user.

Our team will host a table at four (4) regularly scheduled community events or high-activity locations within the City. We will work with City staff to prioritize well-attended large-scale events to maximize the ATP exposure, including opportunities to engage disadvantaged community members. Such events may include city sponsored events, in conjunction with a local event, or at key activity centers to provide an opportunity for the community at large to learn about the project and provide their input easily and quickly. Potential events to attend can vary in scale such as the annual Concerts in the Park, Treats in the Streets, Orange International Street Fair, or smaller events such as little league opening day.

We recommend that at least three of the pop-ups occur before each scheduled community workshop as an additional tactic to promote participation at the workshops. Informational materials about the project will be developed for the pop-up events, which can include board displays, interactive community engagement activities, informational fact sheets and brochures, and comment cards. A template for each collateral item will be developed to allow for easy and consistent updates and distribution through electronic means or via the project website. We will facilitate, plan, provide all supplies, and coordinate logistics for the pop-up events, and write a summary of feedback received during the event.

(C.3) Stakeholder Engagement

Building relationships with community leaders and organizations provides an opportunity to gather feedback, gain trust, and represent the perspectives of the broader community. Hosting smaller meetings and one-one meetings with the leaders or organizations is a chance to explore nuances, consider impacts, offer creative solutions, and build support. The Mark Thomas team will coordinate

and facilitate up to three (3) virtual meetings with key stakeholders, with the option for in-person meetings upon request by the City.

During these meetings, Mark Thomas will present preliminary assessment findings, share insights gathered from community outreach activities, and collect stakeholder input to help identify high-need areas and collaboratively develop strategies to address the community's priorities.

Key Stakeholders may include (but are not limited to):

- » Healthcare providers: St. Joseph Hospital, UC Irvine Health, Orange County Health Care Agency
- » Major employers and business representatives: The Outlets at Orange, MainPlace Mall, Chamber of Commerce, Downtown businesses, The Village at Orange
- » Academic institutions: Chapman University, local school districts, and parent-teacher associations

We recommend hosting stakeholder meetings early in the project to ensure stakeholder feedback informs project development and strengthens outreach and engagement strategies. All feedback will be documented through meeting minutes and integrated into the Needs Assessment to demonstrate how stakeholder input influences project decisions. Stakeholders will also be provided with invitations to public engagement activities and promotional materials to share within their networks.

(C.4) Summary Memorandum

At the conclusion of outreach and stakeholder engagement, Mark Thomas will prepare a comprehensive memorandum summarizing findings from all activities. This document will highlight community and stakeholder priorities, document feedback from workshops, surveys, and pop-up events, and integrate key insights into the needs analysis.

The memorandum will:

- » Summarize existing and future bicycling and walking needs.
- » Identify both infrastructure and non-infrastructure challenges and opportunities.
- » Reflect demographic and land use trends, travel demand patterns, and population growth.
- » Provide a foundation for Draft and Final Active Transportation Plan recommendations.

This memorandum will serve as a key chapter in the Draft and Final ATP, ensuring that community voices and stakeholder input directly shape the City's active transportation vision.

DELIVERABLES

C.1:

- » Report of Preliminary Assessment & figures, maps, tables, and graphs associated with the report

C.2:

- » Three (3) community workshops (Presentation, Agendas, Notes, and Summary; assume in-person)
- » Three (3) online surveys and community feedback as received at events, pop-ups, or online
- » Graphics & Visuals (all figures, maps, tables, and graphs associated with outreach events)
- » Participation at Four (4) Pop-Up events throughout the City

C.3:

- » Three (3) Stakeholder Meetings (Presentation, Agendas, Notes, Summary; assume virtual)
- » Meeting Materials (All figures, maps, tables, and graphs associated with Stakeholder Meetings)

C.4:

- » Summary Report of key findings from the public and stakeholder's events and meetings

TASK D – DRAFT OF CITYWIDE ACTIVE TRANSPORTATION PLAN

Mark Thomas will develop an Administrative Draft Plan that consolidates findings, analysis, and concepts from previous tasks while documenting public outreach efforts and outcomes. This draft will also incorporate implementation strategies, outlining next steps, funding sources, project phasing, and potential partnerships to support execution.

(D.1) Draft Active Transportation Plan

Mark Thomas will prepare an initial draft of the ATP to serve as an administrative version for City staff to review. There will be a minimum of three report submittals: 30%, 60%, and 90%, with each incorporating City feedback from prior drafts. To ensure efficiency, comments will be tracked in a response matrix that documents how each item has been addressed.

The 30% plan submittal will provide a robust framework that sets the direction of the Plan. It will include draft goals and objectives, initial mapping of conditions and opportunities, and preliminary project concepts. This milestone will allow City staff and stakeholders to give meaningful feedback early in the process, helping to refine strategies, improve prioritization, and position the City for grant funding success. The 90% submittal Citywide Active Transportation Plan will be presented at two (2) City Public hearings to obtain additional feedback and input. Throughout the process, public engagement findings from Task C and stakeholder discussions will be integrated into recommendations, ensuring that community needs directly inform plan outcomes.

At a minimum, the document will include the following sections:

- » **Introduction** – Outlining the purpose of the document and the City's vision and goals for active transportation.
- » **ATP Policy Framework** – Defining active transportation policies that support the City's vision and goals.
- » **Inventory of Existing Conditions** – Summarizing key findings from Task B (Existing Conditions), including connectivity gaps, safety issues and concerns, and opportunities for improvements.
- » **Summary of Needs Assessment** – Highlighting key findings from Task C (Needs Assessment), with emphasis on potential pedestrian and bicycle corridor improvements, opportunities for wayfinding signage, and programmatic strategies.
- » **General Recommendations** – Providing a toolbox of infrastructure and non-infrastructure strategies to improve safety, mobility, and accessibility. These will align with regional goals, such as Metrolink's 2021 Strategic Business Plan.
- » **Recommended Projects** – Presenting proposed active transportation projects using visual graphics, including maps and tables, with recommendations informed by public input and community priorities.
- » **The City's Updated Bike Master Plan** – Documenting updates and a revised map of bikeway facilities.
- » **Project Prioritization List** – Organizing projects into tiers using clear criteria, tied to funding eligibility, cost estimates, and phasing strategies.
- » **Support Programs** – Detailing initiatives for safety, education, encouragement, enforcement, and evaluation, supported by performance measures to monitor outcomes.

(D.2) Draft of Financial Strategy

The purpose of the Financial Strategy is to provide the City with a practical, actionable roadmap for implementing the recommended ATP projects.

Mark Thomas will develop a project prioritization methodology that evaluates the proposed ATP projects based on multiple criteria including alignment with community priorities, impact, feasibility, and demonstrated need. The process will assign weights to the prioritization criteria to rank projects for implementation priority. The final ranking will be organized by tiers, with short-, mid- and long-term implementation priority.

Based on the outcomes of the project prioritization analysis, Mark Thomas will prepare up to five (5) grant-ready conceptual designs for the highest ranked proposed projects. These designs will be prepared in a format suitable for typical funding applications and will comply with local, state, and federal standards, ensuring readiness for future grant opportunities. Mark Thomas will compile a comprehensive list of potential funding sources and grant programs aligned with the proposed ATP projects. This list will include eligibility requirements, timelines, and matching fund considerations, providing the City with practical, actionable options for project implementation.

The financial strategies will be incorporated into the 60% and 90% plan submittals, allowing City staff to review and provide input early in the process. The information will be presented in a clear, user-friendly format (tables, charts, or visual summaries) and structured for seamless integration into the final ATP. By connecting project concepts to realistic funding opportunities, this strategy demonstrates proactive planning and a commitment to facilitating implementation of the City's active transportation network.

(D.3) Draft of Cost Estimate

Based on the recommendations set forward in the Draft ATP and the outcomes of the project prioritization analysis conducted in Task D.2 (Financial Strategy), Mark Thomas will develop planning-level cost estimates for implementation of the top-tiered projects. The project selection process will be documented, clearly indicating which projects advance to conceptual design and providing corresponding cost estimates for the top 5 highest ranked projects.

Based on the conceptual engineering plans developed in Task D.2, quantities will be generated, and unit pricing applied to prepare a conceptual level cost estimate using the ATP Cost Estimate format.

Unit costs will be determined based on the following:

- » Review of local City examples
- » Review of Mark Thomas project examples
- » Collaboration with the City Staff
- » Evaluation of Caltrans cost data and relevant sources.

The cost estimate recommendations will be included in the 60% and 90% submittals, giving City staff actionable

information for planning and decision-making. The content will be structured for seamless incorporation into the final ATP and will clearly align recommended projects with feasible implementation strategies, ensuring consistency with funding opportunities and implementation readiness.

DELIVERABLES

D.1:

- » A 30% draft of the ATP to serve as an administrative version for City staff to review
- » A 60% draft of the ATP to serve as an administrative version for City staff to review
- » A 90% draft of the ATP to serve as an administrative version for City staff to review

D.2:

- » An initial draft of a financial strategy to serve as an administrative version for City staff to review (including project prioritization methodology memorandum; up to five (5) grant-ready conceptual designs; and list of potential funding sources and grant programs)

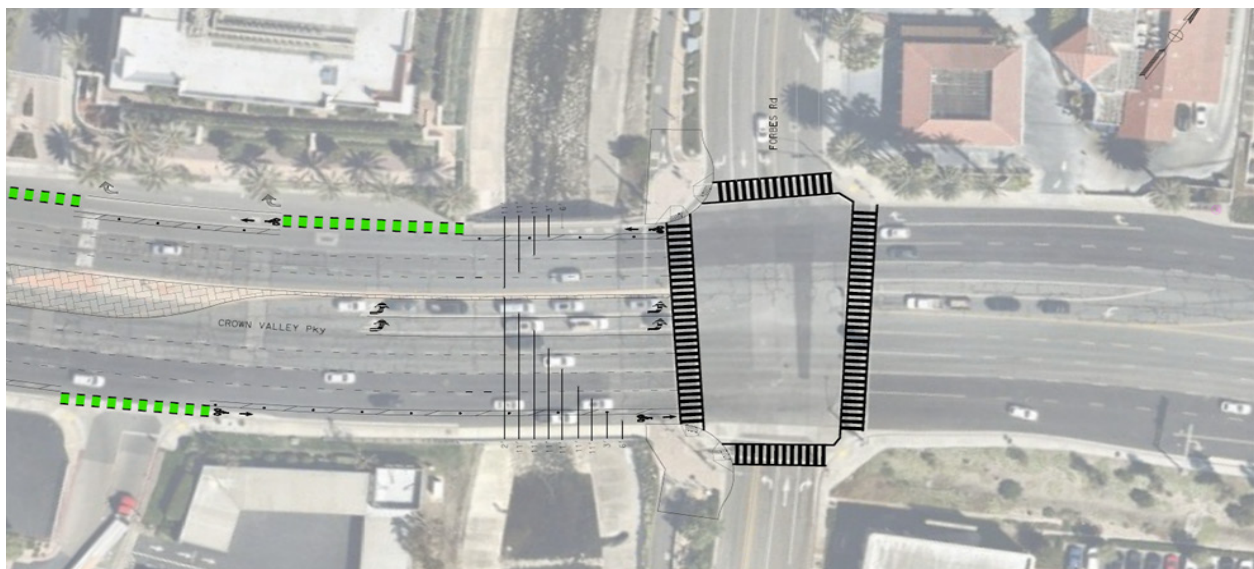
D.3:

- » Estimate of cost for up to five (5) proposed ATP projects

TASK E – CEQA REVIEW

(E.1) Draft CEQA Document

Based on the scope of the proposed project, it is anticipated that the ATP will qualify for a CEQA statutory exemption pursuant to Public Resources Code (PRC) Section 21080.20 (Bicycle Transportation Plans) and PRC Section 21080.25 (SB 288). Mark Thomas will prepare a memorandum documenting the applicability of the exemptions. The draft will be submitted to the City's Planning Department for review. Mark Thomas will address one round of City comments before finalizing the document.



Exemption 21080.20 requires that before determining that a project is exempt pursuant to that section, the lead agency hold noticed public hearings in areas affected by the ATP. The hearings will serve as a way to hear and respond to public comments. Public hearing notices shall be published by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas. We assume that public hearings required for the exemption will be completed as a part of the overall outreach and public engagement plan for the project.

If, during project development or consultation with City staff/legal counsel, it is determined that 1) the project would not meet the criteria for the stated statutory exemptions, and/or 2) additional technical analysis or documentation such as technical reports or an Initial Study is necessary, Mark Thomas will provide a separate scope and fee for those services.

(E.2) Final CEQA Document

Mark Thomas will incorporate City comments into the memorandum and will prepare the Notice of Exemption (NOE). Following adoption of the Plan by the City Council, Mark Thomas will file the NOE with the State Clearinghouse and County Clerk.

DELIVERABLES

E.1:

- » Evaluation Summary and Draft CEQA Document Preparation

E.2:

- » Final CEQA documents

TASK F – FINAL CITYWIDE ATP & BIKE MASTER PLAN

(F.1) Draft Plan Presentation of Final ATP & Bike Master Plan

Mark Thomas will assist City staff in presenting the 90% submittal of the Draft ATP and updated Bike Master Plan at two (2) Public Hearings for adoption. Mark Thomas will prepare all supporting materials including a presentation, resolution, and staff report for use at the Planning Commission and City Council hearings.

The presentation will highlight how community input shaped the final recommendations, using visuals such as maps, infographics, and project phasing graphics to clearly communicate priorities to decision-makers and the public. The presentation will also summarize the financial strategy and cost estimates (Tasks D.2 and D.3), demonstrating a clear roadmap for implementation and positioning projects as grant-ready.

Feedback from each hearing will be documented in a comment matrix, noting next steps and responses for incorporation into the final plan.

(F.2) Incorporate Feedback

Mark Thomas will revise the draft final plan to reflect City staff, Commission, and City Council feedback, documenting all comments and responses in a comment matrix. Revisions may include adjustments to project prioritization, cost estimates, or phasing to ensure the plan reflects final policy direction. A 95% submittal will be prepared for City staff review, showing incorporated feedback for the ATP, updated Bike Master Plan, financial strategy, and cost estimates.

(F.3) Final ATP & Bike Master Plan

Mark Thomas will provide City staff with a final adoption-ready ATP that includes the updated Citywide Bike Master Plan, financial strategy, and cost estimate. The final deliverables will be packaged for ease of use, including a print-ready plan, web-friendly format, and editable GIS layers and maps. We will provide three (3) hard copies and an electronic file of the Final adoption of the Plan along with the resolution.

DELIVERABLES

F.1:

- » Presentation of 90% ATP at two (2) City Public Hearings
- » Report summarizing the outcome of the Public Hearings

F.2:

- » Submit a 95% draft of the Active Transportation Plan—including the updated Bike Master Plan, Financial Strategy, and Cost Estimate—incorporating feedback received from City Staff, City Council and Commission on the 90% submittal. This submittal shall indicate which changes have been made and be prepared for final review by City staff.

F.3:

- » Final submittal of ATP
- » Provide three (3) hard copies and an electronic file of the Final adoption of the City's Active Transportation Plan along with the resolution.



SCHEDULE

CITY OF ORANGE CITYWIDE ACTIVE TRANSPORTATION PLAN																											
PROPOSED PROJECT SCHEDULE																											
		2025		2026												2027											
TASK	DESCRIPTION	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	
A	PROJECT MANAGEMENT & ADMINISTRATION																										
A.1	Kick-off Meeting																										
A.2	Project Management & Monthly Reports																										
A.3	Project Schedule																										
B	EXISTING CONDITIONS																										
B.1	Data Collection																										
B.2	Collision Data																										
B.3	Existing Conditions Mapping & Modeling																										
B.4	Analysis Report with Key Locations																										
C	NEEDS ASSESSMENT																										
C.1	Preliminary Assessment																										
C.2	Community Outreach / Workshops					W					W				W												
C.3	Stakeholder Engagement																										
C.4	Summary Memorandum																										
D	DRAFT CITYWIDE ACTIVE TRANSPORTATION PLAN																										
D.1	Draft Active Transportation Plan																										
D.2	Draft of Financial Strategy																										
D.3	Draft of Cost Estimate																										
E	CEQA REVIEW																										
E.1	Draft CEQA Document																										
E.2	Final CEQA Document																										
F	FINAL PLANS																										
F.1	Draft Plan Presentation of Final ATP & Bike Master Plan																										
F.2	Incorporate Feedback																										
F.3	Final ATP & Bike Master Plan																										

Appendix E

STAFF HOURS SHEET



STAFF HOURS SHEET

COST PROPOSAL FOR PROJECT SCOPE - City of Orange: Citywide ATP HSIPL-5073 (098) CIP#30247

 *Please note that rates shown are for estimating purpose only. See Rate Schedule for actual rates/ranges.	Mark Thomas														
	Sr. Engineering Manager	Sr. Project Engineer	Design Engineer II	Sr. Project Manager - PL	Project Manager - PL	Sr. Planner	Planner II	Funding Manager	Sr. Funding Specialist	Project Accountant	Sr. Project Coordinator	Sr. Graphic Manager	Sr. Graphic Designer	Graphic Designer	Total Hours
1.0 PROJECT MANAGEMENT & ADMINISTRATION															
1.1 Kick-Off Meeting	2			2	6	6						4			20
1.2 Project Management & Monthly Reports	2				24	12				24	24				86
1.3 Project Schedule				2	4	6									12
OTHER DIRECT COSTS															
Subtotal Phase 1	4	0	0	4	34	24	0	0	0	24	24	4	0	0	118
2.0 EXISTING CONDITIONS															
2.1 Data Collection				4	12	18	24					2	4	6	70
2.2 Collision Data				6	12	18	36					4	8	12	96
2.3 Existing Conditions Mapping & Modeling				2	6	12	16					6	10	16	68
2.4 Analysis Report w/ Key Locations				6	12	18	24					2	4	6	72
OTHER DIRECT COSTS															
Subtotal Phase 2	0	0	0	18	42	66	100	0	0	0	0	14	26	40	306
3.0 NEEDS ASSESSMENT															
3.1 Preliminary Assessment				6	12	24	32					2	4	6	86
3.2 Community Outreach/Workshops				12	24	48	60					12	20	36	212
3.3 Stakeholder Engagement				6	12	18	6								42
3.4 Summary Memorandum				8	16	20	24					2	4	6	80
OTHER DIRECT COSTS															
Subtotal Phase 3	0	0	0	32	64	110	122	0	0	0	0	16	28	48	420
4.0 DRAFT OF CITYWIDE ACTIVE TRANSPORTATION PLAN															
4.1 Draft Active Transportation Plan	6			12	24	36	48					4	8	16	154
4.2 Draft of Financial Strategy				2	4	8	12	6	12						44
4.3 Draft of Cost Estimate	6	18	36	2	6	12	6								86
OTHER DIRECT COSTS															
Subtotal Phase 4	12	18	36	16	34	56	66	6	12	0	0	4	8	16	284
5.0 CEQA REVIEW															
5.1 Draft CEQA Document				10			40								50
5.2 Final CEQA Document				6			20								26
OTHER DIRECT COSTS															
Subtotal Phase 5	0	0	0	16	0	0	60	0	0	0	0	0	0	0	76
6.0 FINAL CITYWIDE ACTIVE TRANSPORTATION PLAN & BIKE MASTER PLAN															
6.1 Draft Plan Presentation Final ATP & Bike Master	2			2	6	10	6						2	4	32
6.2 Incorporate Feedback				2	4	8	16								30
6.3 Final ATP & Bike Master Plan	2	2		6	10	18	30					2	4	8	82
OTHER DIRECT COSTS															
Subtotal Phase 6	4	2	0	10	20	36	52	0	0	0	0	2	6	12	144
TOTAL HOURS	20	20	36	96	194	292	400	6	12	24	24	40	68	116	1348

TASK	DESCRIPTION	COST
A (1)	PROJECT MANAGEMENT & ADMINISTRATION	\$76,871
B (2)	EXISTING CONDITIONS	\$56,310
C (3)	NEEDS ASSESSMENT	\$116,479
D (4)	DRAFT OF CITYWIDE ACTIVE TRANSPORTATION PLAN	\$58,350
E (5)	CEQA REVIEW	\$14,080
F (6)	FINAL CITYWIDE ACTIVE TRANSPORTATION PLAN & BIKE MASTER PLAN	\$27,690
TOTAL COST:		\$349,781

COST PROPOSAL FOR PROJECT SCOPE - City of Orange: Citywide ATP HSIPL-5073 (098) CIP#30247

MARK THOMAS *Please note that rates shown are for estimating purpose only. See Rate Schedule for actual rates/ranges.	Mark Thomas															Subconsultants		TOTAL COST
	Sr. Engineering Manager \$430	Sr. Project Engineer \$240	Design Engineer II \$175	Sr. Project Manager - PL \$280	Project Manager - PL \$190	Sr. Planner \$200	Planner II \$160	Funding Manager \$355	Sr. Funding Specialist \$245	Project Accountant \$155	Sr. Project Coordinator \$180	Sr. Graphic Manager \$230	Sr. Graphic Designer \$195	Graphic Designer \$145	Total Hours	Total MT Cost	ARELLANO DBE	
1.0 PROJECT MANAGEMENT & ADMINISTRATION																		
1.1 Kick-Off Meeting	2			2	6	6						4			20	\$4,680	1,069	\$5,749
1.2 Project Management & Monthly Reports	2				24	12				24	24				86	\$15,860	4,236	\$20,096
1.3 Project Schedule				2	4	6									12	\$2,520	-	\$2,520
OTHER DIRECT COSTS																\$20,700	-	\$20,700
Subtotal Phase 1	4	0	0	4	34	24	0	0	0	24	24	4	0	0	118	\$43,760	\$5,305	\$49,065
2.0 EXISTING CONDITIONS																		
2.1 Data Collection				4	12	18	24					2	4	6	70	\$12,950	-	\$12,950
2.2 Collision Data				6	12	18	36					4	8	12	96	\$17,540	-	\$17,540
2.3 Existing Conditions Mapping & Modeling				2	6	12	16					6	10	16	68	\$12,310	-	\$12,310
2.4 Analysis Report w/ Key Locations				6	12	18	24					2	4	6	72	\$13,510	-	\$13,510
OTHER DIRECT COSTS																\$0	-	\$0
Subtotal Phase 2	0	0	0	18	42	66	100	0	0	0	0	14	26	40	306	\$56,310	\$0	\$56,310
3.0 NEEDS ASSESSMENT																		
3.1 Preliminary Assessment				6	12	24	32					2	4	6	86	\$15,990	-	\$15,990
3.2 Community Outreach/Workshops				12	24	48	60					12	20	36	212	\$39,000	36,050	\$75,050
3.3 Stakeholder Engagement				6	12	18	6								42	\$8,520	-	\$8,520
3.4 Summary Memorandum				8	16	20	24					2	4	6	80	\$15,230	1,689	\$16,919
OTHER DIRECT COSTS																\$0	-	\$0
Subtotal Phase 3	0	0	0	32	64	110	122	0	0	0	0	16	28	48	420	\$78,740	\$37,739	\$116,479
4.0 DRAFT OF CITYWIDE ACTIVE TRANSPORTATION PLAN																		
4.1 Draft Active Transportation Plan	6			12	24	36	48					4	8	16	154	\$30,180	-	\$30,180
4.2 Draft of Financial Strategy				2	4	8	12	6	12						44	\$9,910	-	\$9,910
4.3 Draft of Cost Estimate	6	18	36	2	6	12	6								86	\$18,260	-	\$18,260
OTHER DIRECT COSTS																\$0	-	\$0
Subtotal Phase 4	12	18	36	16	34	56	66	6	12	0	0	4	8	16	284	\$58,350	\$0	\$58,350
5.0 CEQA REVIEW																		
5.1 Draft CEQA Document				10			40								50	\$9,200	-	\$9,200
5.2 Final CEQA Document				6			20								26	\$4,880	-	\$4,880
OTHER DIRECT COSTS																\$0	-	\$0
Subtotal Phase 5	0	0	0	16	0	0	60	0	0	0	0	0	0	0	76	\$14,080	\$0	\$14,080
6.0 FINAL CITYWIDE ACTIVE TRANSPORTATION PLAN & BIKE MASTER PLAN																		
6.1 Draft Plan Presentation Final ATP & Bike Master Plan	2			2	6	10	6						2	4	32	\$6,490	-	\$6,490
6.2 Incorporate Feedback				2	4	8	16								30	\$5,480	-	\$5,480
6.3 Final ATP & Bike Master Plan	2	2		6	10	18	30					2	4	8	82	\$15,720	-	\$15,720
OTHER DIRECT COSTS																\$0	-	\$0
Subtotal Phase 6	4	2	0	10	20	36	52	0	0	0	0	2	6	12	144	\$27,690	\$0	\$27,690
TOTAL HOURS	20	20	36	96	194	292	400	6	12	24	24	40	68	116	1348		463	
Anticipated Salary Increases																\$22,056	\$0	\$22,056
OTHER DIRECT COSTS																\$20,700	\$5,750	\$26,450
TOTAL COST	\$8,600	\$4,800	\$6,300	\$26,880	\$36,860	\$58,400	\$64,000	\$2,130	\$2,940	\$3,720	\$4,320	\$9,200	\$13,260	\$16,820		\$300,986	\$48,794	\$349,781

MT Fee (B Rates)

Please note that the rates shown are for estimating purposes only. See rate schedule for actual rates/ranges.

8/27/2025

MARK THOMAS & COMPANY, INC. RATE SCHEDULE

EXPIRES JUNE 30, 2026

Engineering

Intern	\$60 - \$105
Technician	\$95 - \$135
Design Engineer I	\$120 - \$175
Design Engineer II	\$135 - \$210
Sr. Technician	\$155 - \$210
Civil Engineering Designer	\$155 - \$245
Project Engineer	\$155 - \$225
Sr. Project Engineer	\$195 - \$280
Sr. Technical Engineer	\$200 - \$230
Technical Lead	\$230 - \$280
Sr. Technical Lead	\$265 - \$335
CADD Manager	\$220 - \$260
Design Manager	\$350 - \$390
Engineering Manager	\$350 - \$390
Sr. Engineering Manager	\$365 - \$495

Construction Management

Office Engineer	\$165 - \$265
* Asst. Resident Engineer	\$170 - \$250
* Sr. Inspector - CM	\$185 - \$260
* Inspector - CM	\$150 - \$275
Resident Engineer	\$255 - \$335
Sr. Resident Engineer	\$300 - \$370
Construction Manager	\$255 - \$295
Area Manager - CM	\$280 - \$325

Planning

Planner I	\$105 - \$140
Economist	\$135 - \$160
Planner II	\$140 - \$170
Sr. Planner	\$165 - \$230

Landscape Architecture/Urban Design

Landscape Intern	\$80 - \$95
Landscape Designer I	\$100 - \$125
Landscape Designer II	\$120 - \$160
Landscape Architect	\$155 - \$180
Sr. Landscape Architect	\$175 - \$200

Grant Writing

Funding Specialist	\$135 - \$230
Sr. Funding Specialist	\$225 - \$260
Funding Manager	\$325 - \$380

Surveying

Survey Technician I-III	\$65 - \$185
Lead Survey Technician	\$145 - \$165
Survey Specialist I-III	\$130 - \$280
Asst Surveyor I-III	\$130 - \$195
Project Surveyor I-III	\$190 - \$295
* Chief of Party	\$210 - \$270
* Instrumentperson	\$205 - \$245
* Chainperson	\$195 - \$230
* Apprentice	\$125 - \$195
* 2-Person Crew	\$395 - \$480
* 3-Person Crew	\$560 - \$710
* Utility Locator	\$195 - \$265

Project Management & Oversight

Project Manager	\$175 - \$310
Sr. Project Manager	\$240 - \$365
Survey Manager I-II	\$230 - \$300
SUE Program Manager	\$280 - \$315
Division Manager	\$270 - \$445
Principal	\$480 - \$525

Project Support

Technical/Sr. Technical Writer	\$115 - \$160
Project/Sr. Project Assistant	\$85 - \$185
Survey Coordinator	\$115 - \$120
Project/Sr. Project Coordinator	\$125 - \$205
Graphic/Sr. Graphic Designer	\$125 - \$220
Project/Sr. Project Accountant	\$120 - \$185
Sr. Graphic Manager	\$195 - \$260
Project Delivery Manager	\$210 - \$235
Project Accountant Manager	\$230 - \$260
Safety Manager	\$245 - \$250

District Management

* Inspector - Apprentice	\$95 - \$100
* Inspector/Sr. Inspector	\$95 - \$175
* Lead Inspector	\$135 - \$155
Assistant/Associate Sanitary Engineer	\$150 - \$210
Sanitary/Sr. Sanitary Project Engineer	\$190 - \$270
Operations/Deputy District Manager	\$240 - \$345
District Manager-Engineer	\$350 - \$390

Special Services

Expert Witness	\$550
Strategic Consulting	\$550

Reimbursables including, but not limited to; reproductions, delivery and filing fees; outside consultant fees; and survey field expenses will be billed at *Cost Plus 5%*. **Mileage** will be billed per *current IRS Rate*.

Additional promotional steps exist within various rate categories.

This rate schedule expires June 30, 2026; rates are subject to escalation with new hourly rate schedule as of July 1, 2026.

** These charge rates are subject to Prevailing Wage laws and Union contract.*

IRVINE

3200 El Camino Real Suite 290
Irvine, CA 92602
(949) 477-9000



MARK THOMAS

EXHIBIT “B”

MANDATORY FISCAL, FEDERAL, AND OTHER PROVISIONS

[Beneath this sheet]

Exhibit 10-R: A&E BOILERPLATE AGREEMENT LANGUAGE

(For Local Assistance Federal-Aid Projects)

NOTE TO LOCAL AGENCY - BE SURE THAT YOUR LEGAL STAFF REVIEWS AND APPROVES ALL CONSULTANT CONTRACTS BEFORE EXECUTION. THIS AGREEMENT LANGUAGE IS RECOMMENDED LANGUAGE, EXCEPT ARTICLE XXXII TITLE VI ASSURANCES (APPENDICES A AND E MUST BE PHYSICALLY INCLUDED, UNMODIFIED, IN ANY FEDERAL-AID CONTRACT AND APPENDICES B-D MUST BE PHYSICALLY INCLUDED, UNMODIFIED, IN ANY FEDERAL-AID CONTRACT INVOLVING RIGHT OF WAY ACQUISITION). MODIFY AS RECOMMENDED BY YOUR OWN LEGAL STAFF AND TO FIT YOUR PARTICULAR REQUIREMENTS AND PROJECT.

THE FISCAL AND FEDERAL PROVISIONS ARE REQUIRED IN ALL FEDERALLY FUNDED CONTRACTS. THE ORIGINAL INTENT OF THE ARTICLE SHALL REMAIN, IF MODIFIED BY YOUR LEGAL STAFF.

THIS EXHIBIT CONTAINS FISCAL REQUIREMENTS FROM 2 CFR 200 AND IS TO BE USED FOR STATE-ONLY FUNDED CONTRACTS AS WELL.

[Note: italic text within brackets throughout the Articles is intended for instructional purposes only]

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ARTICLE I INTRODUCTION

- A. 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:

(NAME OF CONSULTANT)

Incorporated in the State of (NAME OF STATE)

The Project Manager for the "CONSULTANT" will be (NAME)

The name of the "LOCAL AGENCY" is as follows:

(NAME)

The Contract Administrator for LOCAL AGENCY will be (NAME)

- 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 (DATE). The approved CONSULTANT's Cost Proposal is attached hereto (Attachment #) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.

City of Orange Indemnification prevails

- ~~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

[Choose either Option 1 or Option 2]

[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.

~~*[Option 2 - Use paragraphs A & B below for on-call AGREEMENTs]*~~

- ~~A. CONSULTANT shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for LOCAL AGENCY's Contract Administrator or Project Coordinator 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 or Project Coordinator, as needed, to discuss progress on the project(s).~~

ARTICLE III STATEMENT OF WORK

[Insert Appropriate Statement of work including a Description of the Deliverables in the following sections. If a section does not apply to the AGREEMENT, state "Not Applicable to this AGREEMENT."]

- A. CONSULTANT Services
[Detail based on the services to be furnished should be provided by CONSULTANT. Nature and extent should be verified in the negotiations to make precise statements to eliminate subsequent

uncertainties and misunderstandings. Reference to the appropriate standards for design or other standards for work performance stipulated in CONSULTANT AGREEMENT should be included. Describe acceptance criteria, and if the responsible CONSULTANT/engineer shall sign all Plans, Specifications and Estimate (PS&E) and engineering data furnished under the AGREEMENT including registration number.

Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion, a Caltrans Deputy District Director signs the Finding of No Significant Impact, or the Caltrans District Director signs the Record of Decision (see [LAPM Chapter 6: Environmental Procedures](#), and the Standard Environmental Reference).]

B. Right of Way

[State whether Right of Way requirements are to be determined and shown by CONSULTANT, whether land surveys and computations with metes and bounds descriptions are to be made, and whether Right of Way parcel maps are to be furnished.]

C. Surveys

[State whether or not the CONSULTANT has the responsibility for performing preliminary or construction surveys.]

D. Subsurface Investigations

[State specifically whether or not CONSULTANT has responsibility for making subsurface investigations. If borings or other specialized services are to be made by others under the supervision of CONSULTANT, appropriate provisions are to be incorporated. Archaeological testing and data recovery guidance can be found in the Standard Environmental Reference.]

E. Local Agency Obligations

All data applicable to the project and in possession of LOCAL AGENCY, another agency, or government agency that are to be made available to CONSULTANT are referred to in the AGREEMENT. Any other assistance or services to be furnished to CONSULTANT are to be stated clearly.

F. Conferences, Site Visits, Inspection of Work

This AGREEMENT provides for conferences as needed, visits to the site, and inspection of the work by representatives of the LOCAL AGENCY, State, and/or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.

G. Checking Shop Drawings

[For AGREEMENTs requiring the preparation of construction drawings, make provision for checking shop drawings. Payment for checking shop drawings by CONSULTANT may be included in the AGREEMENT fee, or provision may be made for separate payment.]

H. CONSULTANT Services During Construction

The extent, if any of CONSULTANT's services during the course of construction as material testing, construction surveys, etc., are specified in the AGREEMENT together with the method of payment for such services.

I. Documentation and Schedules

AGREEMENTs where appropriate, shall provide that CONSULTANT document the results of the work to the satisfaction of LOCAL AGENCY, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the AGREEMENT objectives.

J. Deliverables and Number of Copies

The number of copies or documents to be furnished, such as reports, brochures, sets of plans, specifications, or Right of Way parcel maps shall be specified. Provision may be made for payment for additional copies.

ARTICLE IV PERFORMANCE PERIOD

[A time must be set for beginning and ending the work under the AGREEMENT. The time allowed for performing the work is specified; it should be reasonable for the kind and amount of services contemplated; and it is written into the AGREEMENT. If it is desirable that Critical Path Method (CPM) networks, or other types of schedules be prepared by CONSULTANT, they should be identified and incorporated into the AGREEMENT.]

A. This AGREEMENT shall go into effect on (DATE), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on (DATE), 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.

[Use paragraph C below in addition to paragraphs A & B above for on-call AGREEMENTs. On-call AGREEMENTs shall be 5 years maximum.]

~~C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this AGREEMENT, the terms of the AGREEMENT shall be extended by AGREEMENT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only. The maximum term shall not exceed five (5) years.~~

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

[Choose either Option 1, 2, 3, or 4]

~~*[Option 1 - Use paragraphs A through K below for Cost-Plus-Fixed Fee AGREEMENTs]*~~

~~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 \$(AMOUNT). 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:

(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)
(ADDRESS)

- I. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$(Amount).
- 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.

[Option 2 - For Cost per Unit of Work AGREEMENTs, replace paragraphs A & B of Option 1 with the following paragraphs A, B, and C and re-letter the remaining paragraphs. Adjust as necessary for work specific to your project].

- A. The method of payment for the following items shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.
- B. The specified rate to be paid for vehicle expense for CONSULTANT's field personnel shall be \$(Amount) per approved Cost Proposal. This rate shall be for fully equipped vehicle(s) specified in

Article III Statement of Work, as applicable. The specified rate to be paid for equipment shall be, as listed in the approved Cost Proposal.

- C. The method of payment for this AGREEMENT, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment-rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in the approved Cost Proposal, unless additional reimbursement is provided for, by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and AGREEMENT is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I," of this article shall not be exceeded unless authorized by AGREEMENT amendment.

[Option 3 - Use paragraphs A through P for Specific Rates of Compensation Agreements (such as on-call Agreements). This payment method shall only be used when it is not possible at the time of procurement to estimate the extent or duration of the work or to estimate costs with any reasonable degree of accuracy. The specific rates of compensation payment method should be limited to AGREEMENTs or components of AGREEMENTs for specialized or support type services where the CONSULTANT is not in direct control of the number of hours worked, such as construction engineering and inspection.]

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this AGREEMENT. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.
- D. After a project to be performed under this AGREEMENT is identified by LOCAL AGENCY, LOCAL AGENCY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a LOCAL AGENCY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both LOCAL AGENCY and CONSULTANT.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's approved Cost Proposal.

CONSULTANT shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT is responsible for paying the appropriate rate, including escalations that take place during the term of the AGREEMENT.

F. *[Local Agency to include either (a) or (b) below; delete the other one]*

(a) Reimbursement for transportation and subsistence costs shall not exceed State rates.

(b) Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONSULTANT will be responsible for transportation and subsistence costs in excess of State rates.

G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an AGREEMENT amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.

H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.

I. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this AGREEMENT.

J. A Task Order is of no force or effect until returned to LOCAL AGENCY and signed by an authorized representative of LOCAL AGENCY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by LOCAL AGENCY.

K. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by CONSULTANT prior to the expiration or termination of this AGREEMENT. Invoices shall be mailed to LOCAL AGENCY'S Contract Administrator at the following address:

(NAME OF LOCAL AGENCY/ NAME OF CONTRACT ADMINISTRATOR)
(ADDRESS)

L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this AGREEMENT.

M. The total amount payable by LOCAL AGENCY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.

N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.

- O. Task Orders may not be used to amend the language (or the terms) of this AGREEMENT nor to exceed the scope of work under this AGREEMENT.
- P. The total amount payable by LOCAL AGENCY for all Task Orders resulting from this AGREEMENT shall not exceed \$ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this AGREEMENT through Task Orders.

[Option 4 - Use paragraphs A through E below for lump sum agreements.]

- A. The method of payment for this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article III Statement of Work. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by LOCAL AGENCY.
- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- C. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice must be submitted within sixty (60) calendar days after completion of CONSULTANT's work unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)
(ADDRESS)

- E. The total amount payable by LOCAL AGENCY shall not exceed \$(Amount).

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 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 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 31 or 2 CFR 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 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 and records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition. 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 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.

F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

G. Prompt Payment of Withheld Funds to Subconsultants

The LOCAL AGENCY may hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY, of the contract work, and pay retainage to CONSULTANT based on these acceptances. The LOCAL AGENCY shall designate one of the methods below in the contract to ensure prompt and full payment of any retainage kept by CONSULTANT or subconsultant to a subconsultant.

[Choose either Method 1, Method 2, or Method 3 below and delete the other two.]

Method 1: No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. CONSULTANTS and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Method 2: No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Method 3: The LOCAL AGENCY shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY of the contract work and pay retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the LOCAL AGENCY. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a 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 proposal 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 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 CONSULTANT of the project is not liable for the penalties described above unless the CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the 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 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
 - 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 (<https://sam.gov/content/home>) maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

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

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate Good Faith Efforts (GFE) to meet this goal. It is CONSULTANT's responsibility to verify at date of proposal opening that the DBE firm is certified as a DBE by using the California Unified Certification Program (CUCP) database and possesses the most specific available North American Industry Classification System (NAICS) codes and work code applicable to the type of work the firm will perform on the contract. Additionally, the CONSULTANT is responsible to document the verification record by printing out the CUCP data for each DBE firm. A list of DBEs certified by the CUCP can be found at <https://dot.ca.gov/programs/civil-rights/dbe-search>.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR 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 11 %. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10-02: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: Proposer/Contractor Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance

Under 49 CFR 26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient 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 CONSULTANT from future proposing as non-responsible

E. Termination and [Replacement](#) of DBE Subconsultants

CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the LOCAL AGENCY's written consent. CONSULTANT shall not terminate or [replace](#) a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the LOCAL AGENCY. Unless the LOCAL AGENCY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02: Consultant Contract DBE Commitment form.

[Termination of DBE Subconsultants](#)

[After execution of the AGREEMENT, termination of a DBE may be allowed for the following, but not limited to, justifiable reasons with prior written authorization from the LOCAL AGENCY:](#)

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The LOCAL AGENCY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the LOCAL AGENCY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.

6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent or exhibits credit unworthiness.
8. Listed DBE voluntarily withdraws with written notice from the Contract.
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The LOCAL AGENCY determines other documented good cause.

CONSULTANT must use the following procedures to request the termination of a DBE or portion of a DBE's work:

1. Send a written notice to the DBE of the CONSULTANT's intent to use other forces or material sources and include one or more justifiable reasons listed above. Simultaneously send a copy of this written notice to the LOCAL AGENCY. The written notice to the DBE must request they provide any response within five (5) business days to both the CONSULTANT and the LOCAL AGENCY by either acknowledging their agreement or documenting their reasoning as to why the use of other forces or sources of materials should not occur.
2. If the DBE does not respond within five (5) business days, CONSULTANT may move forward with the request as if the DBE had agreed to CONSULTANT's written notice.
3. Submit CONSULTANT's DBE termination request by written letter to the LOCAL AGENCY and include:
 - One or more above listed justifiable reasons along with supporting documentation.
 - CONSULTANT's written notice to the DBE regarding the request, including proof of transmission and tracking documentation of CONSULTANT's written notice
 - The DBE's response to CONSULTANT's written notice, if received. If a written response was not provided, provide a statement to that effect.

The LOCAL AGENCY shall respond in writing to CONSULTANT's DBE termination request within five (5) business days.

Replacement of DBE Subconsultants

After receiving the LOCAL AGENCY's written authorization of DBE termination request, CONSULTANT must obtain the LOCAL AGENCY's written agreement for DBE replacement. CONSULTANT must find or demonstrate GFEs to find qualified DBE replacement firms to perform the work to the extent needed to meet the DBE commitment.

The following procedures shall be followed to request authorization to replace a DBE firm:

1. Submit a request to replace a DBE with other forces or material sources in writing to the LOCAL AGENCY which must include:
 - a. Description of remaining uncommitted work item made available for replacement DBE solicitation and participation.
 - b. The proposed DBE replacement firm's business information, the work they have agreed to perform, and the following:
 - Description of scope of work and cost proposal

- Proposed subcontract agreement and written confirmation of agreement to perform on the Contract
- Revised Exhibit 10-O2: Consultant Contract DBE Commitment

2. If CONSULTANT has not identified a DBE replacement firm, submits documentation of CONSULTANT's GFEs to use DBE replacement firms within seven (7) days of LOCAL AGENCY's authorization to terminate the DBE. CONSULTANT may request the LOCAL AGENCY's approval to extend this submittal period to a total of 14 days. Submit documentation of actions taken to find a DBE replacement firm, such as:

- Search results of certified DBEs available to perform the original DBE work identified and/or other work CONSULTANT had intended to self-perform, to the extent needed to meet DBE commitment
- Solicitations of DBEs for performance of work identified
- Correspondence with interested DBEs that may have included contract details and requirements
- Negotiation efforts with DBEs that reflect why an agreement was not reached
- If a DBE's quote was rejected, provide reasoning for the rejection, such as why the DBE was unqualified for the work, or why the price quote was unreasonable or excessive
- Copies of each DBE's and non-DBE's price quotes for work identified, as the LOCAL AGENCY may contact the firms to verify solicitation efforts and determine if the DBE quotes are substantially higher
- Additional documentation that supports CONSULTANT's GFE

The LOCAL AGENCY shall respond in writing to CONSULTANT's DBE replacement request within five (5) business days.

F. Commitment and Utilization

The LOCAL AGENCY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The LOCAL AGENCY shall request CONSULTANT to:

1. Notify the LOCAL AGENCY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subconsultant
 - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business (see Exhibit 9-F: Monthly Disadvantaged Business Enterprise Payment)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the LOCAL AGENCY. On work completion, CONSULTANT shall complete Exhibit 17-O: Disadvantaged Business Enterprises (DBE) Certification Status Change and submit the form to the LOCAL AGENCY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F: Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the LOCAL AGENCY within 90 days of contract acceptance. The LOCAL AGENCY will withhold \$10,000 until the form is submitted. The LOCAL AGENCY will release the withhold upon submission of the completed form.

In the LOCAL AGENCY's reports of DBE participation to Caltrans, the LOCAL AGENCY must display both commitments and attainments.

G. Commercially Useful Function

DBEs must perform a commercially useful function (CUF) under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBE value of work will only count toward the DBE commitment if the DBE performs a CUF. A DBE performs a CUF when it is responsible for execution of the work on 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.

CONSULTANT must perform CUF evaluation for each DBE working on a federal-aid contract, with or without a DBE goal. Perform a CUF evaluation at the beginning of the DBE's work and continue to monitor the performance of CUF for the duration of the project.

CONSULTANT must provide written notification to the LOCAL AGENCY at least 15 days in advance of each DBE's initial performance of work or supplying materials for the Contract. The notification must include the DBE's name, work the DBE will perform on the contract, and the location, date, and time of where their work will take place.

Within 10 days of a DBE initially performing work or supplying materials on the Contract, CONSULTANT shall submit to the LPA the initial evaluation and validation of DBE performance of a CUF using the LAPM 9-J: Disadvantaged Business Enterprise Commercially Useful Function Evaluation. Include the following information with the submittal:

- Subcontract agreement with the DBE
- Purchase orders
- Bills of lading
- Invoices
- Proof of payment

CONSULTANT must monitor all DBE's performance of CUF by conducting quarterly evaluations and validations throughout their duration of work on the Contract using the LAPM 9-J: DBE Commercially Useful Function Evaluation. CONSULTANT must submit to the LOCAL AGENCY

these quarterly evaluations and validations by the 5th of the month for the previous three months of work.

CONSULTANT must notify the LOCAL AGENCY immediately if they believe the DBE may not be performing a CUF.

The LOCAL AGENCY will verify DBEs performance of CUF by reviewing the initial and quarterly submissions of LAPM 9-J: DBE Commercially Useful Function Evaluation, submitted supporting information, field observations, and through any additional LOCAL AGENCY evaluations. The LOCAL AGENCY must evaluate DBEs and their CUF performance throughout the duration of a Contract. The LOCAL AGENCY will provide written notice to the CONSULTANT and the DBE at least two (2) business days prior to any evaluation. The CONSULTANT and the DBE must participate in the evaluation. Upon completing the evaluation, the LOCAL AGENCY must share the evaluation results with the CONSULTANT and the DBE. An evaluation could include items that must be remedied upon receipt. If the LOCAL AGENCY determines the DBE is not performing a CUF, the CONSULTANT must suspend performance of the noncompliant work.

CONSULTANT and DBEs must submit any additional CUF related records and documents within five (5) business days of LOCAL AGENCY's request such as:

- Proof of ownership or lease and rental agreements for equipment
- Tax records
- Employee rosters
- Certified payroll records
- Inventory rosters

Failure to submit required DBE Commercially Useful Function Evaluation forms or requested records and documents can result in withholding of payment for the value of work completed by the DBE.

If CONSULTANT and/or the LOCAL AGENCY determine that a listed DBE is not performing a CUF in performance of their DBE committed work, CONSULTANT must immediately suspend performance of the noncompliant portion of the work. LOCAL AGENCY may deny payment for the noncompliant portion of the work. LOCAL AGENCY will ask the CONSULTANT to submit a corrective action plan (CAP) to the LOCAL AGENCY within five (5) days of the noncompliant CUF determination. The CAP must identify how the CONSULTANT will correct the noncompliance findings for the remaining portion of the DBE's work. LOCAL AGENCY has five (5) days to review the CAP in conjunction with the CONSULTANT's review. The CONSULTANT must implement the CAP within five (5) days of the LOCAL AGENCY's approval. The LOCAL AGENCY will then authorize the prior noncompliant portion of work for the DBE's committed work.

If corrective actions cannot be accomplished to ensure the DBE performs a commercially useful function on the Contract, CONSULTANT may have good cause to request termination of the DBE.

- 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 CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. 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.
- L. For projects awarded on or after March 1, 2020, but before September 1, 2023: 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 must complete and email Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.

For projects awarded on or after September 1, 2023: Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract. If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

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

ARTICLE XIX INSURANCE

[Choose either Option 1 or Option 2]

City of Orange INSURANCE prevails

[Option 1 - for AGREEMENT with a scope of services that may require the CONSULTANT or subconsultant to work within the operating state or Local Agency Highway Right of Way; where there would be exposure to public traffic or construction operations.]

- 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~~ ² million dollars (\$~~1~~,000,000) per occurrence. ^{two}
- 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.~~

~~[Option 2 - for AGREEMENTs with a scope of services that will not require the CONSULTANT or subconsultant to work within the operating state or Local Agency Highway Right of Way where there would be exposure to public traffic or construction CONSULTANT operations.]~~

~~CONSULTANT is not required to show evidence of general comprehensive liability insurance.~~

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.

[Choose either Option 1 or Option 2]

[Option 1 - Use paragraphs A through C below for all AGREEMENTs without PS&E submittal]

- 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 (Insert Department Head or Official), 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.

~~*[Option 2 - Replace Paragraph B, above, with the following for AGREEMENTs requiring the submission of PS&E]*~~

- ~~B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.~~

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.

- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

~~[Add the following paragraph to all AGREEMENTs, which may require trenching of five feet or deeper]~~

- ~~D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.~~

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. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

~~[For PS&E contracts add paragraph F, below, to paragraphs A through E, above]~~

- ~~F. 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 PROMPT PAYMENT**A. PROMPT PAYMENT FROM LOCAL AGENCY TO CONSULTANT**

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

- (1) The LOCAL AGENCY shall review each payment request as soon as feasible after receipt to verify it is a proper payment request.
- (2) The LOCAL AGENCY must return any payment request deemed improper by the LOCAL AGENCY to the CONSULTANT as soon as feasible, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request.

B. PROMPT PAYMENT CERTIFICATION

For projects awarded on or after September 1, 2023: the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract by the 15th of the month following the month of any payment(s). If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

The LOCAL AGENCY must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The LOCAL AGENCY must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the CONSULTANT.

ARTICLE XXXII TITLE VI ASSURANCES**APPENDICES A - E of the TITLE VI ASSURANCES**

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

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

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

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

APPENDIX A

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

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

- f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

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

(HABENDUM CLAUSE)

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

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

APPENDIX C

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

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

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations(as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.*

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

APPENDIX D

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

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

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest ,and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on,

over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

- B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of

public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C.1681 et seq).

ARTICLE XXXIII 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:

(CONSULTANT)

(NAME) _____, Project Manager

(ADDRESS)

LOCAL AGENCY:

(LOCAL AGENCY)

(NAME) _____, Contract Administrator

(ADDRESS)

ARTICLE XXXIV 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 XXXV SIGNATURES

(Name of LOCAL AGENCY)

(Name of CONSULTANT)

(Signature)

(Name of Signer)

(Signature)

(Name of Signer)

Date: _____

Date: _____