



Staff Report

Date: April 5, 2016

To: City Council

From: Valerie J. Barone, City Manager

Reviewed by: Victoria Walker, Community and Economic Development Director
Robert Ovadia, City Engineer

Prepared by: Mark Migliore, Associate Civil Engineer
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925 671-3422

Subject: **Award a construction contract in the amount of \$852,612.95 to Granite Construction of Santa Clara; authorize the use of contingency funds; approve a professional services agreement in the amount of \$121,880 with Swinerton Management and Consulting for construction management services; and authorize the City Manager to execute the agreement for Concord Various Streets Preservation Project, Project No. 2292 (funded by OBAG Grant, Measure J & CalRecycle Grant)**

Report in Brief

The Concord Various Streets Project (Project No. 2292) includes roadway improvements for two major collector streets: Concord Boulevard between Sixth Street and Port Chicago Highway; and Arnold Industrial Way between Port Chicago Highway and Pike Lane. The project also includes associated traffic signal loops replacement, signage, as well as buffered bike lanes on Arnold Industrial Way.

Granite Construction of Santa Clara was the low bidder and submitted a responsive and responsible bid in the amount of \$1,105,789.00. Granite Construction has an appropriate and valid contractor's license and satisfactory work references.

Staff has reviewed a proposal submitted by Swinerton Management and Consulting for Construction Management (CM), inspection and material testing services in the amount of \$121,880 for this project.

Staff applied for and has received notice of award for CalRecycle grant funding for use of rubberized asphalt. The actual amount of the grant to be awarded to the City is based on the amount of rubberized asphalt actually used in the project. The grant amount is projected to be approximately \$13,500.

The project bid documents included a base bid for Concord Boulevard between Port Chicago Hwy and Sixth Street, and two additive bid alternates. Bid Alternate B - Arnold Industrial Way between Pike Lane and approximately halfway to Port Chicago Highway; and Bid Alternate C - Arnold Industrial Way between Port Chicago Hwy and approximately halfway to Pike Lane. The available project funds are insufficient to cover the costs of all of the designed improvements, construction management and inspection services, as well as provide an appropriate project contingency. It is recommended that the award be limited to the Base Bid (Concord Boulevard between Port Chicago Hwy and Sixth Street) and Bid Alternate C (Arnold Industrial Way between Port Chicago Hwy and approximately halfway to Pike Lane). The remainder of Arnold Industrial Way can be considered for rehabilitation at a future date.

Recommended Action

Staff recommends that the City Council award a construction contract in the amount of \$852,912.95 for the Base Bid and Bid Alternate C only to Granite Construction of Santa Clara; authorize staff to utilize the available project contingency for contract change orders up to 10% of the contract amount; approve a professional services agreement in the amount of \$121,800 with Swinerton Management and Consulting of Concord for construction management, inspection, and material testing services; authorize the City Manager to execute the agreements; and appropriate CalRecycle grant funding into the project budget.

Background

The City Council approved the Concord Various Streets Preservation Project (PJ2292) as part of the FY 2014-15 CIP Program. This project consists of pavement rehabilitation on Concord Blvd. (from Port Chicago Hwy. to Sixth Street) and Arnold Industrial Way (from Port Chicago Hwy. to Pike Lane). The City secured a One Bay Area Grant (OBAG) grant in the amount of \$757,000 through the Metropolitan Transportation Commission (MTC) to partially fund this project.

Analysis

The scope of work includes the following for the Concord Blvd. (Base Bid) portion of the work: removing the top 2.5 inches of existing asphalt concrete pavement, repair of failed base areas, and placing approximately 2 inches of rubberized asphalt as surface course. The Additive Bid B scope of work included work on Arnold Industrial Way between Pike Lane and approximately halfway to Port Chicago Highway, similar to the work planned on Concord Blvd; and scope of work for Additive Bid C included work on the easterly portion of Arnold Industrial Way between Port Chicago Hwy. and approximately halfway to Pike Lane was designed to reconstruct the entire structural section of the roadway using the Full Depth Reclamation (FDR) process. The FDR

process recycles the existing asphalt roadway, mixes it with a stabilizing agent and water; and compacts it to produce the base for a new asphalt surface. By recycling the majority of the existing roadway materials, there will be a significant reduction in the number of truck trips as well as less time spent hauling away old material and bringing new material in for the new roadway. The project scope on both streets also includes striping and marking, as well as replacement of traffic signal loops (See Attachments 1 and 2).

In order to engage and inform the community early on in the design process, City staff held a public meeting to solicit input to be considered in the project design. Originally, the project included the installation of “sharrows” on Concord Blvd. A sharrow is a road marking that is used to indicate a shared lane for both a bicycle and vehicular traffic. Based on community feedback and concerns regarding the shared markings on a roadway with speeds in excess of 35 miles per hour, the markings were eliminated and replaced with “Share the Road” signage. One community comment suggested reducing the number of traffic lanes along this stretch of Concord Blvd., but this suggestion was not incorporated due to concerns regarding the resulting shoulder widths, high traffic volumes and the need for additional traffic and environmental studies and clearance that would be required to reduce the number of vehicle lanes. The input received regarding Arnold Industrial Way included the suggestion of installing buffered bike lanes, and bicycle loop detectors, which were incorporated into the project design. Other miscellaneous striping modifications on both sections of road were made to increase safety and awareness of bicycle riders.

The use of Federal funds in this project requires that the City establish Disadvantaged Business Enterprise (DBE) goals for the project based on the anticipated work activities and availability of DBE contractors for such work. The DBE goal for construction of this project is 8% of contract costs and the goal for the professional services related to construction management and inspection of the project is 7% of contracted costs. The DBE goals are met by both the proposed contractor and construction management and inspection firm.

CalRecycle Grant

Engineering staff applied for a Rubberized Asphalt Pavement Grant in December 2015 from the Department of Resources Recycling and Recovery (CalRecycle). This grant program promotes markets for the recycled content surfacing products derived from waste rubber tires generated in California and decreases the adverse environmental impacts created by the unlawful disposal of these tires. Rubberized asphalt concrete is a proven road paving material that has been used in California since the 1970’s and has been used successfully on several Concord streets, including Whitman Road, Concord Blvd and Port Chicago Hwy. It is made by blending ground tire rubber with hot asphalt binder and then mixed with conventional aggregate. This Project currently calls for the use of approximately 1100 tons of rubberized asphalt on the Concord Blvd. portion of the work, and approximately 250 tons on the Arnold Industrial Way portion. CalRecycle provided notice in early March that staff was successful in obtaining this grant for a total

of five Concord paving projects. The grant will reimburse the City at a rate of \$10 per ton for each ton of rubberized asphalt that is used on the project following the execution of the grant agreement and issuance of the Notice to Proceed from CalRecycle. Previous Council action authorizes the City Engineer to execute CalRecycle grants. No local match to this grant is required. Staff requests the City Council to appropriate the CalRecycle grant funds (approximately \$13,500) to the Project.

The current project schedule estimates construction commencing in late April or early May 2016, with substantial completion anticipated by the end of July 2016. Staff will work with the contractor to provide advanced construction notice to all residents and businesses in the affected areas. Staff will also work closely with County Connection regarding the schedule for work on the Arnold Industrial Way portion of the project to minimize impact to their operations and employees.

Procurement Process

Construction Contract

The bid opening for Project No. 2292 was held on February 10, 2016. Five (5) bids were received, ranging from \$1,105,789 to \$1,273,804.40 for the Total Bid as shown on the Bid Results (Attachment 3). The Engineer's estimate for the Total bid (including both additives) was \$1,451,412 (this was greater than the available funds for the project). Granite Construction of Santa Clara (Granite) was the low bidder and submitted a responsible and responsive bid in the total amount of \$1,105,789 which was approximately 23% lower than the Engineer's Estimate.

Staff has completed its analysis of Granite's bid, determining that Granite: possesses an appropriate and valid contractor's license; is not on any debarred list; they, as well as all of their subcontractors, are registered with the Department of Industrial Relations as required by SB 854; have satisfactory references and are experienced in the construction of similar projects. Additionally, as required by Caltrans procedures, Granite's Disadvantaged Business Enterprise (DBE) subcontractor commitment of 8% meets the contract goal. Staff contacted the low bidder to obtain confirmation of their bid amount. Granite confirmed that they are comfortable with their bid and ready to perform the work as bid.

The award of a construction contract for the total bid would require additional funding of approximately \$255,000. Therefore, while staff considers Granite's bid to be reasonable, due to limited funding availability, staff is recommending award of the Base Bid and Additive Bid C only in the amount of \$852,612.95. Additive Bid C will repair a more deteriorated portion of Arnold Industrial Way than Additive Bid B, and there are sufficient funds to cover both the Base bid and Additive Bid C.

Professional Services Agreement for Construction Management

Though Caltrans would approve using a pre-qualified construction management firm solicited via the City's Master Services Agreement process, provided that the process complies with the DBE rules, staff desired to select the most qualified consultant for this

project through the Request for Proposal (RFP) solicitation process. The City advertised for Construction Management (CM) Services pursuant to the Caltrans process for federally-funded projects. In response to the Request for Proposals, seven firms submitted quality proposals. Five of these consultants were chosen to complete oral interviews to provide CM services. Based on both a superior proposal and the best interview performance, Swinerton Management and Consulting (Swinerton) was selected as the top candidate. Swinerton, who has extensive demonstrated experience with this type of construction, also has a Master Services Agreement for FY 2015-17 for Project and Construction Management. Swinerton's fee of \$91,880 (exclusive of the \$30,000 material testing cost) is approximately 10.7% of the total construction cost of \$852,912.95 which falls within a reasonable range for this type of work. Swinerton Management and Consulting will use Applied Materials and Engineering, a DBE firm, as their Materials subconsultant. With the use of this subconsultant, Swinerton meets the DBE goal of 7% for their Agreement.

Staff has also checked several references for similar projects that Swinerton has performed recently. They have provided services to Concord for the recently completed Farm Bureau Road Improvements (Project No. 2251) and the FY14-15 Pavement Maintenance project (Project No. 2329). Based on this review, as well as a determination that their rates, allocation of hours, and total cost of \$121,880 (inclusive of material testing) is considered reasonable for this project staff is recommending Council select sSwinerton to perform Construction Management for this project. The proposed Professional Services Agreement has been reviewed by the City Attorney's office (Attachment 4).

Financial Impact

There are sufficient funds in the budget of Project No. 2292 (OBAG Grant funds and Measure J) for the award of the Base Bid and Additive Bid C, to provide for construction management, inspection and testing services and a construction contingency of approximately 12% of the contract amount. To fund the full project and include the scope of work for Additive Bid B, an additional allocation of \$255,000 would be required to cover the costs of construction, construction management, inspection and contingencies and these funds are not currently available.

Additionally, as discussed above, the CalRecycle grant will reimburse the City at a rate of \$10 per ton for each ton of rubberized asphalt that is used on the project following the execution of this grant agreement.

Environmental Determination

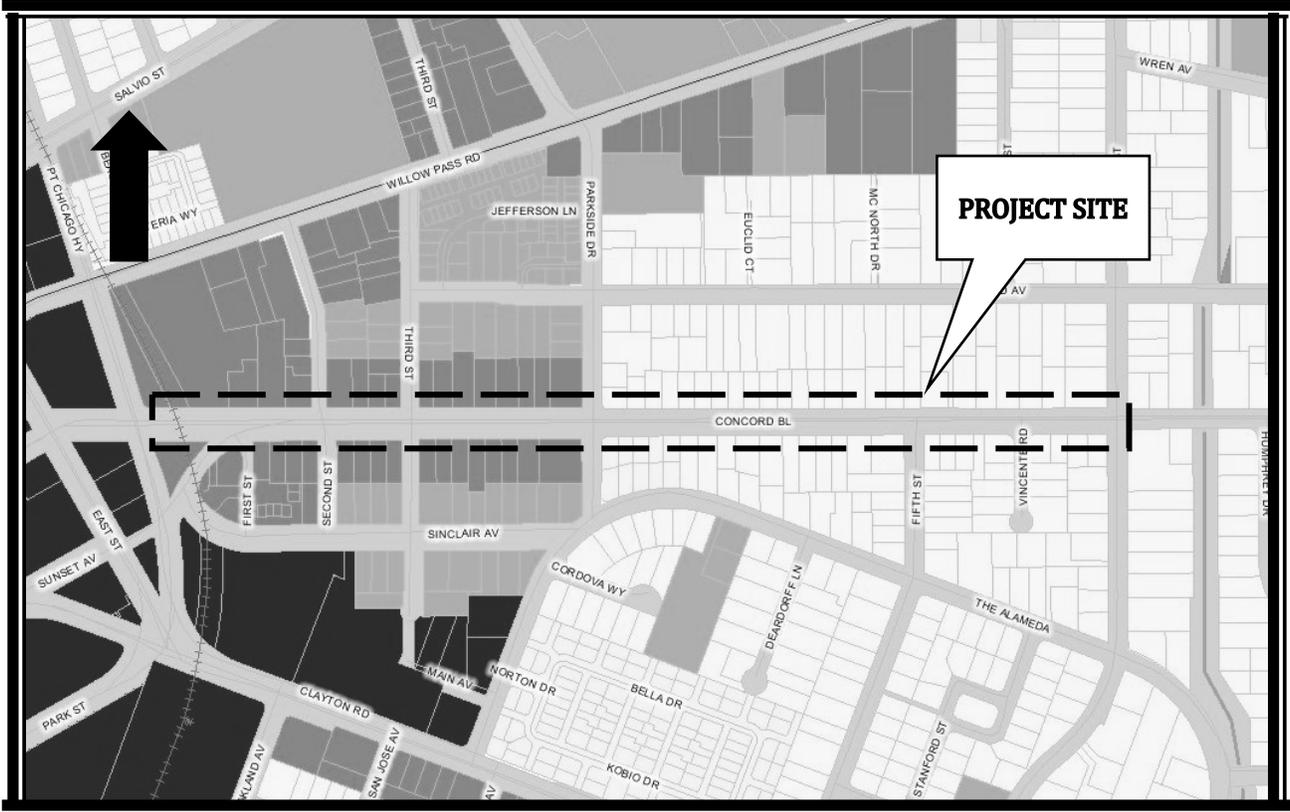
This project qualifies for a Notice of Exemption, which was issued under Section 15301 of the California Environmental Quality Act (CEQA). The Notice of Exemption was filed with the County Clerk on October 7, 2015. Since federal funds are being used in the project, National Environmental Policy Act (NEPA) clearance was also required. Caltrans issued a Categorical Exclusion under NEPA on August 27, 2015.

Public Contact

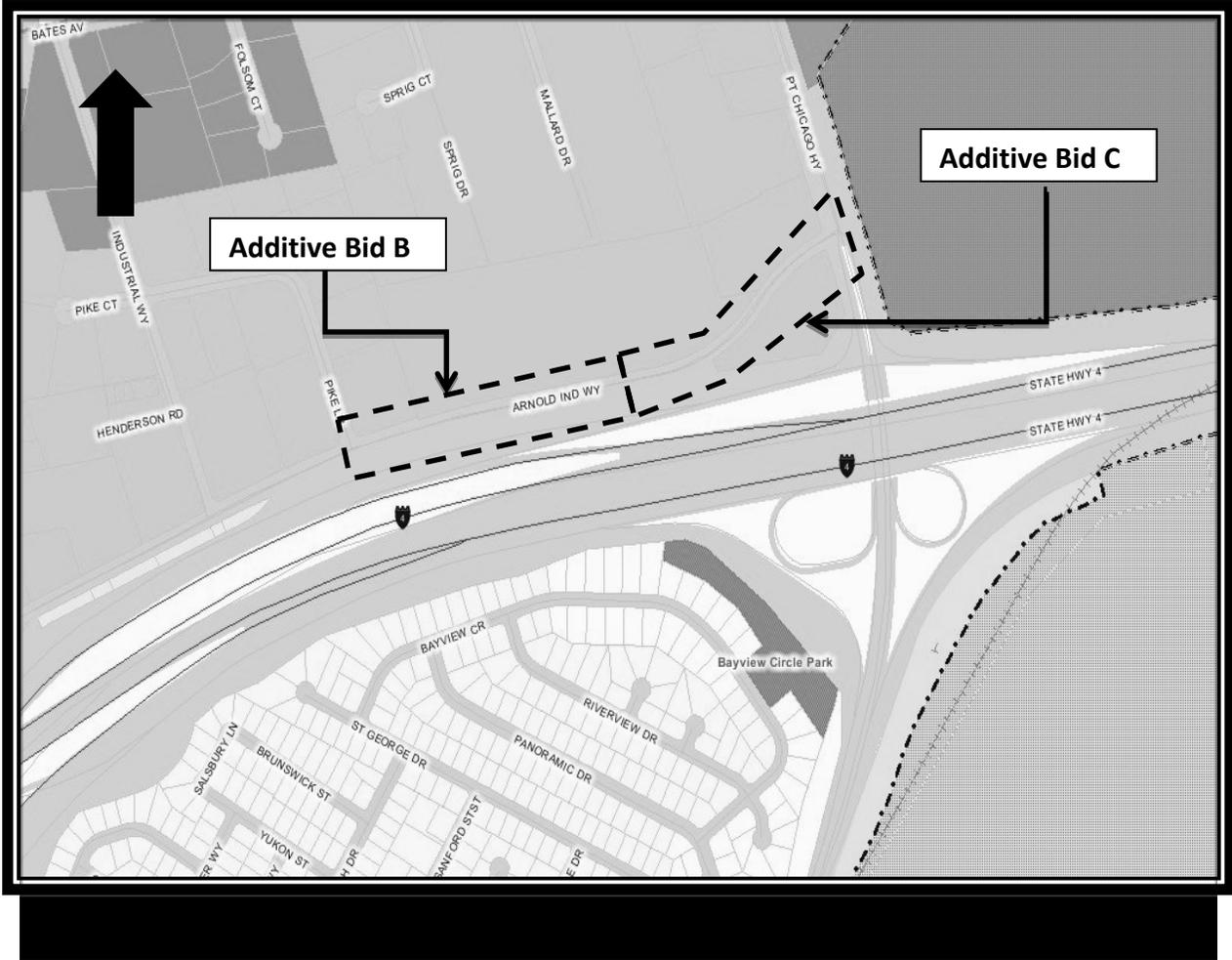
The City Council Agenda was posted. An open house public meeting held on July 29, 2015.

Attachments

1. Location Map – Concord Blvd
2. Location Map – Arnold Industrial Way
3. Bid Results
4. Professional Services Agreement (Swinerton Management and Consulting)



LOCATION MAP
PROJECT NO. 2292
CONCORD VARIOUS STREETS PRESERVATION
CONCORD BOULEVARD
FROM 6TH STREET TO PORT CHICAGO HIGHWAY
NO SCALE



LOCATION MAP

PROJECT NO. 2292

CONCORD VARIOUS STREETS PRESERVATION
ARNOLD INDUSTRIAL HIGHWAY

FROM PORT CHICAGO HIGHWAY TO PIKE LANE
NO SCALE

**City of Concord
Bid Sheet**

**PROJECT #2292
Concord Various Streets Preservation**

**Bid Opening:
Wednesday,
February 10, 2016
2:00 p.m.**

City Manager's Conference Room

Engineer's Estimate: \$1,250,000 and
\$1,500,000

To be awarded: TBD

COMPANY	TOTAL BID
Granite Construction Company 715 Comstock Street Santa Clara, CA 95054	\$1,105,789.00
Bay Cities Paving & Grading, Inc. 1450 Civic Court Bldg. #400 Concord, CA 94520	\$1,129,011.03
O.C Jones & Sons, Inc. 1520 Fourth Street Berkeley, CA 94710	\$1,192,194.70
Graniterock 120 Granite Rock Way San Jose, CA 95136	\$1,233,114.00
Ghilotti Bros., Inc. 525 Jacoby Street San Rafael, CA 94901	\$1,273,805.40

Contact: Mark Migliore x3422

AGREEMENT FOR PROFESSIONAL SERVICES

1 THIS AGREEMENT ("Agreement") is entered into on April 6, 2016 between the City of
2 Concord ("CITY") and **Swinerton Management & Consulting**, 260 Townsend Street, San
3 Francisco, CA, 94107("CONSULTANT").

4 THE PARTIES ENTER THIS AGREEMENT based upon the following facts, understandings
5 and intentions:

6 The CITY desires to contract with Swinerton Management & Consulting and Swinerton
7 Management & Consulting to contract with the CITY for provision by Swinerton Management &
8 Consulting to the City for professional services with **Project No. 2292 (Concord Various Streets
9 Preservation)** as further described in Section 2 of this Agreement, upon the terms and conditions
10 hereinafter set forth.

11 NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the
12 parties herein contained, the parties hereto agree as follows:

13 **1. TERM.** This Agreement shall commence on **April 6, 2016** and expire on **April
14 7, 2017.**

15 **A. Extension of Term.** Upon mutual written agreement by the parties, the term of
16 this Agreement may be extended for one additional period(s) of one year(s) each commencing upon
17 the expiration of the initial or extended term, subject to the same terms and conditions of this
18 Agreement. CONSULTANT shall give written notice of its request for extension of the term of the
19 Agreement to the City's Authorized Representative, as identified in Section 4 below, at least thirty
20 (30) days prior to expiration of the initial or extended term.

21 The extension(s) of the term of this Agreement shall be subject to a review of
22 CONSULTANT'S performance in accordance with the terms and conditions of this Agreement and
23 shall be subject to City approval. Such extension of time shall be in writing by a duly executed
24 Amendment to this Agreement.

25 **2. SCOPE OF SERVICES.** Subject to such policy direction and approvals provided by
26 the CITY's Authorized Representative, CONSULTANT shall provide construction management and
27 inspection services for Project No. 2292 (Concord Various Streets Preservation) described in detail in
28 Exhibit A, a proposal from Swinerton Management & Consulting dated March 7, 2016, attached

1 hereto and made a part hereof. CITY retains all rights of approval and discretion with respect to the
2 projects and undertakings contemplated by this Agreement.

3 **3. PAYMENT.** The compensation to be paid to CONSULTANT including payment for
4 professional services and reimbursable expenses, shall be at the rate and schedules in detail in Exhibit
5 A. However, in no event shall the amount CITY pays CONSULTANT exceed one hundred twenty-
6 one thousand eight hundred and eighty (\$121,880) for the term of this Agreement. Any Amendment
7 to this Agreement that includes an increase to this compensation amount shall be made in accordance
8 with Section 5 below.

9 CONSULTANT may submit monthly statements for services rendered; all statements shall
10 include adequate documentation demonstrating work performed during the billing period. It is
11 intended that CITY review such statement and pay CONSULTANT for services rendered within 30
12 days of receipt of a statement that meets all requirements of this Agreement. Payment by CITY shall
13 not be deemed a waiver of unsatisfactory work, even if such defects were known to the CITY at the
14 time of payment.

15 **4. AUTHORIZED REPRESENTATIVES.** Authorized representatives shall represent
16 CITY and CONSULTANT in all matters pertaining to the services to be ordered by CITY or rendered
17 by CONSULTANT under this Agreement except where approval for the CITY is specifically required
18 by the City Council. The CITY's authorized representative is Robert Ovadia, City Engineer of the
19 Community & Economic Development Department. The CONSULTANT's authorized representative
20 is Robert Addiego, Project Executive.

21 **5. AMENDMENT TO AGREEMENT.** This Agreement may be amended in writing,
22 subject to approval by both parties. If additional services are requested by CITY other than as
23 described in the above Scope of Services, this Agreement may be amended, modified, or changed by
24 the parties subject to mutual consent and in accordance with the CITY's Municipal Code by execution
25 of an Amendment by authorized representatives of both parties setting forth the additional scope of
26 services to be performed, the performance time schedule, and the compensation for such services.

27 **A. Amendment for Additional Compensation.** CITY's Authorized
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1 Representative is authorized to execute amendments to the Agreement on behalf of CITY, including
2 amendments providing for additional compensation to CONSULTANT not to exceed \$50,000 during
3 the fiscal year, including the base contract amount, throughout the term of this Agreement. Any
4 additional compensation to CONSULTANT that is \$50,000 or more for the fiscal year, including the
5 base contract amount, must be approved by City Council.

6 Consultant's failure to secure CITY's written authorization for additional compensation or
7 changes to the Scope of Work shall constitute a waiver of any and all right to adjustment in the price
8 or time due, whether by way of compensation, restitution, quantum meruit, or similar relief.

9 **6. INDEPENDENT CONTRACTOR.** Both parties understand and acknowledge that
10 CONSULTANT, its agents, employers and subcontractors are and shall at all times remain as to the
11 CITY wholly independent contractors. Neither the CITY nor any of its officers or employees shall
12 have any control over the manner by which the CONSULTANT performs this Agreement and shall
13 only dictate the results of the performance. CONSULTANT shall not represent that CONSULTANT
14 or its agents, employees or subcontractors are agents or employees of the CITY, and CONSULTANT
15 shall have no authority, express or implied, to act on behalf of the CITY in any capacity whatsoever as
16 an agent, and shall have no authority, express or implied, to bind the CITY to any obligation
17 whatsoever, unless otherwise provided in this Agreement.

18 As an independent contractor, CONSULTANT shall not be eligible for any benefits, which the
19 City may provide to its employees and all persons, if any, hired by CONSULTANT shall be
20 employees or subcontractors of CONSULTANT and shall not be construed as employees or agents of
21 the CITY in any respect. CONSULTANT shall receive no premium or enhanced pay for work
22 normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work
23 performed during non-standard business hours, such as in the evenings or on weekends.
24 CONSULTANT shall not receive a premium or enhanced pay for work performed on a recognized
25 holiday. CONSULTANT shall not receive paid time off for days not worked, whether it be in the
26 form of sick leave, administrative leave, or for any other form of absence. CONSULTANT shall pay
27 all taxes, assessments and premiums under the federal Social Security Act, any applicable
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1 unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use
2 taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by
3 reason of or in connection with the services to be performed by CONSULTANT.

4 **7. STANDARD OF PERFORMANCE.** CONSULTANT represents and warrants to
5 CITY that CONSULTANT is skilled and able to provide such services described in the Scope of
6 Work and that such services shall be performed in an expeditious manner, and with the degree of skill
7 and care that is required by current, good, and sound procedures and practices. CONSULTANT
8 further agrees that the services shall be in conformance with generally accepted professional standards
9 prevailing at the time work is performed.

10 **8. PERFORMANCE BY CONSULTANT.** CONSULTANT shall not employ other
11 consultants, subconsultants, experts, or contractors without the prior written approval of the CITY.
12 Notwithstanding the foregoing, CITY shall not be obligated or liable for payment hereunder to any
13 party other than the CONSULTANT. CONSULTANT hereby designates the CONSULTANT'S
14 representative as the person primarily responsible for the day-to-day performance of
15 CONSULTANT'S work under this Agreement. CONSULTANT shall not change the
16 CONSULTANT'S representative without the prior written consent of the CITY. Unless otherwise
17 expressly agreed by the CITY, CONSULTANT'S representative shall remain responsible for the
18 quality and timeliness of performance of the services, notwithstanding any permitted or approved
19 delegation hereunder.

20 **9. OWNERSHIP AND MAINTENANCE OF DOCUMENTS.** All documents
21 furnished by CONSULTANT pursuant to this Agreement are instruments of CONSULTANT'S
22 services in respect to this project. They are not intended nor are represented to be suitable for reuse by
23 others except CITY on extensions of this project or on any other project. Any reuse without specific
24 written verification and adoption by CONSULTANT for the specific purposes intended will be at
25 user's sole risk and without liability or legal exposure and expenses to CONSULTANT, including
26 attorney's fees arising out of such unauthorized reuse.

27 CONSULTANT'S records, documents, calculations, and all other instruments of service
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1 pertaining to actual project shall be given to CITY at the completion of the project. The CITY
2 reserves the right to specify the file format that electronic document deliverables are presented to the
3 CITY. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions
4 and other final work products compiled by the CONSULTANT under the Agreement shall be vested
5 in the CITY, none of which shall be used in any manner whatsoever, by any person, firm, corporation,
6 or agency without the expressed written consent of the CITY. Basic survey notes and sketches,
7 charts, computations, and other data prepared or obtained under the Agreement shall be made
8 available, upon request, to the CITY without restriction or limitations on their use. CONSULTANT
9 may retain copies of the above-described information but agrees not to disclose or discuss any
10 information gathered, discussed or generated in any way through this Agreement without the written
11 permission of CITY during the term of this Agreement, unless required by law.

12 **10. INDEMNIFICATION.**

13 **A. For Design Professional Services Only.** Pursuant to California Civil Code
14 Section 2782.8, CONSULTANT agrees to indemnify the CITY (including its officers, agents,
15 employees and volunteers) against liability for claims against the CITY that arise out of, pertain to, or
16 relate to the negligence, recklessness, or willful misconduct of CONSULTANT in the performance of
17 this Agreement. The CONSULTANT will reimburse the CITY for any expenditures, including
18 reasonable attorney fees, incurred by the CITY in defending against claims ultimately determined to
19 arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the
20 CONSULTANT.

21 **B. For All Other Services.** CONSULTANT agrees to defend, indemnify and
22 hold harmless the CITY (including its officers, officials, employees, agents and volunteers) from and
23 all claims, demands, actions, losses, damages, injuries, and liability (including all attorney's fees and
24 other litigation expenses) arising out of the CONSULTANT's performance under the terms of this
25 Agreement. This indemnification obligation on CONSULTANT's part shall not apply to the
26 demands, actions, losses, damages, injuries, and liability arising out of the sole negligence or willful
27 misconduct on the part of the CITY.

1 **11. INSURANCE.** CONSULTANT shall, at its own expense, procure and maintain in
2 full force at all times during the term of this Agreement the following insurance:

3 **A. Commercial General Liability Coverage.** CONSULTANT shall maintain
4 commercial general liability insurance with limits of no less than one million dollars (\$1,000,000)
5 combined single limit per occurrence or two million dollars (\$2,000,000) aggregate limit for bodily
6 injury, personal injury, and property damage.

7 **B. Automobile Liability Coverage.** CONSULTANT shall maintain automobile
8 liability insurance covering all vehicles used in the performance of this Agreement providing a one
9 million dollar (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury,
10 and property damage.

11 **C. Professional Liability Coverage (Errors and Omissions).** CONSULTANT
12 shall maintain professional liability insurance with coverage for all negligent errors, acts or omissions
13 committed by CONSULTANT, its agents and employees in the performance of this Agreement. The
14 amount of this insurance shall be not less than one million dollars (\$1,000,000) on a claims made
15 annual aggregate basis or a combined single limit per occurrence basis.

16 **D. Compliance with State Workers' Compensation Requirements.**
17 CONSULTANT covenants that it will insure itself against liability for Workers' Compensation
18 pursuant to the provisions of California Labor Code §3700, et seq. CONSULTANT shall, at all
19 times, upon demand of the City, furnish proof that Workers' Compensation Insurance is being
20 maintained by it in force and effect in accordance with the California Labor Code. The insurer shall
21 also agree to waive all rights of subrogation against the CITY, its officers, officials, employees and
22 volunteers for losses arising from work performed by CONSULTANT for CITY. This provision
23 shall not apply upon written verification by CONSULTANT that CONSULTANT has no employees.

24 **E. Other Insurance Provisions.** The policies are to contain, or be endorsed to
25 contain the following provisions:

26 **(1) Additional Insured.** CITY, its officers, agents, employees, and
27 volunteers are to be covered as an additional insured as respects: Liability arising out of activities
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1 performed by or on behalf of CONSULTANT and operations of CONSULTANT, premises owned,
2 occupied, or used by CONSULTANT. The coverage shall contain no special limitations on the scope
3 or protection afforded to CITY, its officers, officials, employees, or volunteers.

4 Except for worker's compensation and professional liability insurance, the policies mentioned
5 in this subsection shall name CITY as an additional insured and provide for notice of cancellation to
6 CITY. CONSULTANT shall also provide timely and prompt notice to CITY if CONSULTANT
7 receives any notice of cancellation or nonrenewal from its insurer.

8 (2) **Primary Coverage.** CONSULTANT'S insurance coverage shall be
9 primary insurance with respect to CITY, its officers, officials, employees, and volunteers. Any
10 insurance, risk pooling arrangement, or self-insurance maintained by CITY, its officers, officials,
11 employees, or volunteers shall be in excess of CONSULTANT'S insurance and shall not contribute
12 with it.

13 (3) **Reporting Provisions.** Any failure to comply with the reporting
14 provisions of the policy shall not affect the coverage provided to the CITY, its officers, officials,
15 employees, or volunteers.

16 (4) **Verification of Coverage.** CONSULTANT shall furnish CITY with
17 certificates of insurance and the original endorsements effecting coverage required by this Agreement.
18 The certificates and endorsements for each insurance policy are to be signed by a person authorized by
19 that insurer to bind coverage on its behalf. The aforementioned policies shall be issued by an
20 insurance carrier having a rating of Best A-7 or better which is satisfactory to the City Attorney and
21 shall be delivered to CITY at the time of the execution of this Agreement or before work commences.
22 Such policies and certificates shall be in a form approved by the City Attorney. CITY reserves the
23 right to require complete certified copies of all required insurance policies at any time.

24 **12. TIME OF PERFORMANCE.** The time of performance of the services under this
25 Agreement is of the essence, and all time deadlines identified in this Agreement or Scope of Services
26 shall be strictly construed.

27 **13. SUSPENSION OF WORK.** CITY may, at any time, by ten (10) days' written notice,
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1 suspend further performance by CONSULTANT. All suspensions shall extend the time schedule for
2 performance in a mutually satisfactory manner, and CONSULTANT shall be paid for services
3 performed and reimbursable expenses incurred prior to the suspension date. During the period of
4 suspension, CONSULTANT shall not receive any payment for services, or expenses, except for
5 reasonable administration expenses, incurred by CONSULTANT by reason of such suspension.

6 **14. TERMINATION.** CITY may terminate this Agreement for any reason upon ten (10)
7 days written notice to the other party. CITY may terminate the Agreement upon five (5) days written
8 notice if CONSULTANT breaches this Agreement. In the event of any termination, CONSULTANT
9 shall promptly deliver to the CITY any and all finished and unfinished reports or other written,
10 recorded, photographic, or visual materials, documents, data, and other deliverables (“Work
11 Materials”) prepared for the CITY prior to the effective date of such termination, all of which shall
12 become CITY’s sole property. After receipt of the Work Materials, CITY will pay CONSULTANT
13 for the services performed as of the effective date of the termination.

14 **15. COMPLIANCE WITH CIVIL RIGHTS.** During the performance of this contract,
15 CONSULTANT agrees as follows:

16 **A. Equal Employment Opportunity.** In connection with the execution of this
17 Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment
18 because of race, religion, color, sex, or national origin. Such actions shall include, but not be limited
19 to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or
20 recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and
21 selection for training including apprenticeship.

22 **B. Nondiscrimination Civil Rights Act of 1964.** CONSULTANT will comply
23 with all federal regulations relative to nondiscrimination in federally assisted programs.

24 **C. Solicitations for Subcontractors including Procurement of Materials and**
25 **Equipment.** In all solicitation, either by competitive bidding or negotiations, made by
26 CONSULTANT for work to be performed under a subcontract including procurement of materials or
27 leases of equipment, each potential subcontractor, supplier or lessor shall be notified by
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1 CONSULTANT of CONSULTANT’S obligation under this Agreement and the regulations relative to
2 nondiscrimination on the grounds of race, religion, color, sex, or national origin..

3 **16. CONFLICT OF INTEREST.**

4 A. CONSULTANT covenants and represents that neither it, nor any officer or
5 principal of its firm, has, or shall acquire any interest, directly or indirectly, which would conflict in
6 any manner with the interests of CITY or which would in any way hinder CONSULTANT’S
7 performance of services under this Agreement. CONSULTANT further covenants that in the
8 performance of the Agreement, no person having any such interest shall be employed by it as an
9 officer, employee, agent or subcontractor without the express written consent of the CITY.
10 CONSULTANT agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of
11 interest, with the interests of the CITY in the performance of this Agreement.

12 B. CONSULTANT is not a designated employee within the meaning of the
13 Political Reform Act because CONSULTANT:

14 (1) Will conduct research and arrive at conclusions with respect to its rendition
15 of information, advice, recommendation or counsel independent of the control and direction of the
16 CITY or of any CITY official, other than normal contract monitoring; and

17 (2) Possesses no authority with respect to any CITY decision beyond the
18 rendition of information, advice, recommendation or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

19 **17. COMPLIANCE WITH LAWS.** CONSULTANT shall comply with all applicable
20 Federal, State of California, and local laws, rules, and regulations and shall obtain all applicable
21 licenses, including a business license with the City of Concord, and permits for the conduct of its
22 business and the performance of the services.

23 **18. CHOICE OF LAW.** This Agreement shall be construed and interpreted in accordance
24 with the laws of the State of California, excluding any choice of law rules which may direct the
25 application of the laws of another jurisdiction. In the event that suit shall be brought by either party
26 hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the
27 County of Contra Costa, California.

1 **19. NON-WAIVER.** The waiver by either party of any breach of any term, covenant, or
2 condition contained in the Agreement, or any default in their performance of any obligations under the
3 Agreement shall not be deemed to be a waiver of any other breach or default of the same or any other
4 term, covenant, condition, or obligation, nor shall any waiver of any incident of breach of default
5 constitute a continuing waiver of same.

6 **20. ENFORCEABILITY; INTERPRETATION.** In the event that any of the provisions
7 or portions of application of any of the provisions of the Agreement are held to be illegal or invalid by
8 a court of competent jurisdiction, CITY and CONSULTANT shall negotiate an equitable adjustment
9 in the provisions of the Agreement with a view toward affecting the purpose of the Agreement. The
10 illegality or invalidity of any of the provisions or portions of application of any of the provisions of
11 the Agreement shall not affect the legality or enforceability of the remaining provisions or portions of
12 application of any of the provisions of the Agreement. This Agreement shall be interpreted as though
13 it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the
14 ground that said party was solely or primarily responsible for drafting the language to be interpreted.

15 **21. INTEGRATION.** All exhibits identified in this Agreement are attached hereto and
16 incorporated herein by reference. The Agreement contains the entire agreement and understanding
17 between the parties as to the subject matter of this Agreement. It merges and supersedes all prior or
18 contemporaneous agreements, commitments, representation, writings, and discussions between
19 CONSULTANT and CITY, whether oral or written.

20 **22. SUCCESSORS AND ASSIGNS: NO THIRD PARTY BENEFICIARIES; NO**
21 **JOINT VENTURE.** CITY and CONSULTANT respectively, bind themselves, their successors,
22 assigns, and legal representatives to the terms and obligations of this Agreement. CONSULTANT
23 shall not assign or transfer any interest in the Agreement without the CITY's prior written consent,
24 which consent shall be in the CITY's sole discretion. Any attempted assignment or transfer in breach
25 of this provision shall be void. This Agreement is not intended and shall not be construed to create
26 any third party benefit. This Agreement is not intended and shall not be construed to create a joint
27 venture or partnership between the parties. CONSULTANT, its officers, employees and agents shall
28

1 and the same instrument and shall become binding upon the parties when at least one copy hereof
2 shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary
3 to produce or account for more than one such counterpart.

4 **IN WITNESS WHEREOF**, the parties have executed this Agreement in one (1) or more
5 copies as of the date and year first written above.

6 **CONSULTANT**

CITY OF CONCORD, a Municipal Corporation

7
8
9 By: _____
10 Name: Robert Addiego
11 Title: Project Executive
12 Address: 2300 Clayton Road
13 Concord, CA 94520
14 Telephone: (925) 270-5636

By: _____
Name: Valerie Barone
Title: City Manager
Address: 1950 Parkside Drive
Concord, CA 94519
Telephone: (925) 671-3175

15 APPROVED AS TO FORM:

ATTEST:

16 _____
City Attorney

_____ City Clerk

17 Date: _____, 2016

18
19 FINANCE DIRECTOR'S CERTIFICATION:

20 Concord, California

21 Date: _____, 2016

22
23 I HEREBY CERTIFY THAT ADEQUATE FUNDS EXIST OR WILL BE RECEIVED
24 DURING THE CURRENT FISCAL YEAR 2015/16 TO PAY THE ANTICIPATED
25 EXPENSES TO BE INCURRED PURSUANT TO THIS CONTRACT.
26 THE SUM OF **\$121,880**

27 Account Code: 4 5 5 425 4 522 2 425

28 _____
Finance Director's Signature

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #1) Page 1 of 2

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

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Consultant Swinerton Management & Consulting Contract No. CML-5135(053) Date 03-07-2016

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Project Executive	Robert S. Addiego, LEED AP	28	\$ 68.27	\$ 1,365.54
Resident Engineer	Scott Christie, P.E.	289	\$ 64.90	\$ 18,756.10
Engr Support	Greg Armendariz, P.E.	38	\$ 68.27	\$ 2,594.26
Sr. Inspector	Brett Lowther	321	\$ 48.07	\$ 15,430.47

LABOR COSTS

a) Subtotal Direct Labor Costs \$ 38,146.37
 b) Anticipated Salary Increases (see page 2 for sample) \$ 0.00
 c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$ 38,146.37

FRINGE BENEFITS

d) Fringe Benefits (Rate: 41 %) e) TOTAL FRINGE BENEFITS
 [(c) x (d)] \$ 15,620.01

INDIRECT COSTS

f) Overhead (Rate: 55 %) g) Overhead [(c) x (f)] \$ 20,960.05
 h) General and Administrative (Rate: 38 %) i) Gen & Admin [(c) x (h)] \$ 14,493.49
 j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$ 51,073.55

FEE (Profit)

q) (Rate: 2.7 %) k) TOTAL FIXED PROFIT [(c) + (j)] x (q) \$ 2,410.08

OTHER DIRECT COSTS (ODC)

Description	Unit(s)	Unit Cost	Total
l) Travel/Mileage Costs (supported by consultant actual costs)	<u>0</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
m) Equipment Rental and Supplies (itemize)	<u>1</u>	\$ <u>250.00</u>	\$ <u>250.00</u>
n) Permit Fees (itemize), Plan sheets (each), Test Holes (each), etc.	<u>0</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
o) Subconsultant Costs (attach detailed cost proposal in same format as prime consultant estimate for each subconsultant)	<u>1</u>	\$ <u>30,000.00</u>	\$ <u>30,000.00</u>

p) TOTAL OTHER DIRECT COSTS [(l) + (m) + (n) + (o)] \$ 30,250.00

TOTAL COST [(c) + (j) + (k) + (p)] \$ 121,880.00

NOTES:

- Employees subject to prevailing wage requirements to be marked with an *.
- ODC items should be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered "tools of the trade" are not reimbursable.
- ODC items should be consistently billed directly to all clients, not just when client will pay for them as a direct cost.
- ODC items when incurred for the same purpose, in like circumstances, should not be included in any indirect cost pool or in overhead rate.

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #1) Page 2 of 2

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
(SAMPLE CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

Consultant Swinerton Management & Consulting Contract No. CML-5135(053) Date 03-07-2016

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

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$250,000.00	5000		\$50.00	Year 1 Avg Hourly Rate

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

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$50.00	+	2%	=	\$51.00	Year 2 Avg Hourly Rate
Year 2	\$51.00	+	2%	=	\$52.02	Year 3 Avg Hourly Rate
Year 3	\$52.02	+	2%	=	\$53.06	Year 4 Avg Hourly Rate
Year 4	\$53.06	+	2%	=	\$54.12	Year 5 Avg Hourly Rate

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

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	20.0%	*	5000	=	1000	Estimated Hours Year 1
Year 2	40.0%	*	5000	=	2000	Estimated Hours Year 2
Year 3	15.0%	*	5000	=	750	Estimated Hours Year 3
Year 4	15.0%	*	5000	=	750	Estimated Hours Year 4
Year 5	10.0%	*	5000	=	500	Estimated Hours Year 5
Total	100%		Total	=	5000	

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

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$50.00	*	1000	=	\$50,000.00	Estimated Hours Year 1
Year 2	\$51.00	*	2000	=	\$102,000.00	Estimated Hours Year 2
Year 3	\$52.02	*	750	=	\$39,015.00	Estimated Hours Year 3
Year 4	\$53.06	*	750	=	\$39,795.30	Estimated Hours Year 4
Year 5	\$54.12	*	500	=	\$27,060.80	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$257,871.10	
	Direct Labor Subtotal before Escalation			=	\$250,000.00	
	Estimated total of Direct Labor Salary Increase			=	\$7,871.10	Transfer to Page 1

NOTES:

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

FINAL

CITY OF CONCORD - Concord Various Streets Preservation (PJ2292) - Federal Project # CMTL-5135(053)

Matrix of CM Tasks and Fee Proposal for Construction Management Services - Base Bid A + Add Bid B + Add Bid C (50 Work Days Construction)

3/4/2016

SWINERTON MANAGEMENT & CONSULTING

Rates are for work performed in 2016

Task	Robert Addiego - Project Executive SMC		Scott Christie - RE / Sr. PM SMC		Greg Armendariz - Sr. Project Manager SMC		Brett Lowther - Sr. Inspector SMC		Total Cost Per Task
	Hours per Task	Rate/Hour	Hours per Task	Rate/Hour	Hours per Task	Rate/Hour	Hours per Task	Rate/Hour	
Construction Duration = 50 Work Days									
A. Construction Management Services									
Project Administration									
1. Review Contract Documentation	2	\$340	2	\$306	2	\$306	2	\$238	\$1,190
2. Conduct Pre-construction Meeting, agenda & minutes	2	\$340	3	\$459	2	\$306	2	\$238	\$1,343
3. Schedule & Conduct Weekly Project Meetings	0	\$0	12	\$1,836	0	\$0	8	\$952	\$2,788
4. Attend Meetings w/ City / Management Oversight	2	\$340	6	\$918	0	\$0	0	\$0	\$1,258
5. Coordinate with other City's Adjacent Projects	0	\$0	8	\$1,224	0	\$0	8	\$952	\$2,176
6. Monitor Contractor's Progress Schedule & Phasing	0	\$0	8	\$1,224	0	\$0	0	\$0	\$1,224
7. Monitor the Project's Construction Budget	0	\$0	8	\$1,224	0	\$0	0	\$0	\$1,224
8. Monitor the Contractor's Progress	0	\$0	8	\$1,224	0	\$0	8	\$952	\$2,176
9. Provide Quantity Take-offs / Backup for Progress Payments per Caltrans	0	\$0	16	\$2,448	0	\$0	16	\$1,904	\$4,352
10. Maintain Project Docs per City / Caltrans Standards	0	\$0	8	\$1,224	0	\$0	10	\$1,190	\$2,414
11. Prepare Observation Dailies / Weekly Statements of Work Days	0	\$0	6	\$918	0	\$0	12	\$1,428	\$2,346
12. Process / Track Submittals	0	\$0	8	\$1,224	0	\$0	0	\$0	\$1,224
13. Review Submittals (Work Plan, Traffic Control Plan, etc)	0	\$0	8	\$1,224	0	\$0	4	\$476	\$1,700
14. Process / Track RFIs	0	\$0	8	\$1,224	0	\$0	2	\$238	\$1,462
15. Process & Issue Change Orders	0	\$0	8	\$1,224	0	\$0	2	\$238	\$1,462
16. Negotiate contract dispute, schedule delays and claims	0	\$0	6	\$918	0	\$0	2	\$238	\$1,156
17. Prepare Contract Amendment	0	\$0	6	\$918	0	\$0	0	\$0	\$918
18. Monitor Onsite Unforeseen Issues / Conditions	0	\$0	4	\$612	0	\$0	8	\$952	\$1,564
19. Review and Process Monthly Progress Payments	0	\$0	4	\$612	0	\$0	4	\$476	\$1,088
20. Labor Compliance Field Interviews per Caltrans	0	\$0	2	\$306	0	\$0	8	\$952	\$1,258
21. Review Certified Payroll Reports	0	\$0	4	\$612	0	\$0	0	\$0	\$612
22. Monitor SWPPP Compliance	0	\$0	2	\$306	0	\$0	4	\$476	\$782
23. Compile / Maintain As-Built Drawings	0	\$0	4	\$612	0	\$0	4	\$476	\$1,088
24. Perform Final Inspection & Punch Lists w/ EOR	0	\$0	6	\$918	0	\$0	8	\$952	\$1,870
Quality Assurance, Inspection and Material Testing									
25.A. Provide Daily On-Site Inspection Services - Base Bid A	0	\$0	10	\$1,530	16	\$2,448	64	\$7,616	\$11,594
25.B. Provide Daily On-Site Inspection Services - Add Bid B	0	\$0	0	\$0	0	\$0	0	\$0	\$0
25.C. Provide Daily On-Site Inspection Services - Add Bid C	0	\$0	30	\$4,590	8	\$1,224	45	\$5,355	\$11,169
26. Maintain Daily Inspection Logs	0	\$0	0	\$0	0	\$0	8	\$952	\$952
27. Provide Project Photo Progress Reports	0	\$0	0	\$0	0	\$0	12	\$1,428	\$1,428
28. Monitor Project for Conformance with the Plans + Specs	0	\$0	4	\$612	6	\$918	8	\$952	\$2,482
29. Issue and Respond to Non-Compliance Issues	0	\$0	4	\$612	0	\$0	2	\$238	\$850
30. Coordinate the Materials Sampling, Testing and Special Inspection	4	\$680	4	\$612	0	\$0	4	\$476	\$1,768
31. Observe Contractor's Final Testing / Commissioning of Utilities	0	\$0	4	\$612	0	\$0	8	\$952	\$1,564
32. Monitor/Enforce On-site Safety	0	\$0	4	\$612	0	\$0	8	\$952	\$1,564
33. Monitor the Quality Control / Quality Assurance Program	0	\$0	4	\$612	2	\$306	8	\$952	\$1,870
Public and Community Relations									
34. Ensure Contractor Compliance with Public Notifications	0	\$0	2	\$306	0	\$0	2	\$238	\$544
35. Coordinate with Caltrans and Other Agencies during Construction	0	\$0	4	\$612	0	\$0	4	\$476	\$1,088
36. Facilitate / Coordinate with Utility Companies	0	\$0	6	\$918	0	\$0	8	\$952	\$1,870
37. Coordinate with City Staff, Agencies, Consultants	2	\$340	6	\$918	0	\$0	4	\$476	\$1,734

STPL

Post Construction Services												
38. Review Close-out Documents (i.e. O&M Manuals, Warranties)		0	\$0	4	\$612	0	\$0	2	\$238	\$850		
39. Prepare Caltrans Close-out Documents		2	\$340	12	\$1,836	0	\$0	8	\$952	\$3,128		
40. Maintain Electronic & Hard Copy Project Files		0	\$0	8	\$1,224	0	\$0	8	\$952	\$2,176		
41. Perform Post Construction Review and Prepare Lessons Learned		2	\$340	4	\$612	2	\$306	4	\$476	\$1,734		
42. Prepare Final Estimate & Payment		0	\$0	4	\$612	0	\$0	0	\$0	\$612		
43. SMC Contract Administration		2	\$340	0	\$0	0	\$0	0	\$0	\$340		
Caltrans Post-Construction Audit (if needed)												
44. Prepare for the Caltrans Post-Construction Review / Audit		2	\$340	20	\$3,060	0	\$0	2	\$238	\$3,638		
Subtotal Hours		20		289		38		321				
Subtotal Cost per Consultant Individual			\$3,400		\$44,217		\$5,814		\$38,199			
Consultant Subtotal										\$91,630		
Allowance for Special Inspection and Materials Testing												
Applied Materials Engineering, Inc. (AME) ** - Base Bid A			\$24,000							\$24,000		
Applied Materials Engineering, Inc. (AME) ** - Add Bid B			\$0							\$0		
Applied Materials Engineering, Inc. (AME) ** - Add Bid C			\$6,000							\$6,000		
Additional Cost-Reproduction, Photos, Misc Office Supplies			\$250							\$250		
Additional Cost-Allowance Subtotal			\$30,250							\$30,250		
GRAND TOTAL - Base Bid A + Additive Bid B + Additive Bid C												
TOTAL - Base Bid A only										\$104,711		
TOTAL - Additive Bid B only										\$0		
TOTAL - Additive Bid C only										\$17,169		

* NOTE NO ADDITIVE B "B" WORK

OK WTR

- Assumptions:**
1. Allowance for Applied Materials Engineering (AME) is an estimate - the actual costs will be dependent on the Contractor's schedule and efficiency in completing the work.
 2. Actual costs for AME will be dependent on the number of Contractor-requested inspections.
 3. No Night or Weekend work is included in the above Cost Estimate.
 4. The Cost Estimate is based on awarding the Base Bid A and Additive Bid C work. The estimate is based on 50 Work Days + 1 month for Close-out.
 5. The Cost Estimate is based on the RE being 1/2 time (20 hours per week) and the Sr. Inspector at 3/4 time (30 hours per week).
 6. Task No. 44 is an Allowance for the potential Caltrans Audit (post-construction). This is a revocable item if not needed.

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #2) Page 1 of 2
SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

PAGE NOT USED

Note: Mark-ups are Not Allowed

Consultant or Subconsultant _____ Contract No. _____ Date _____

Fringe Benefit % + Overhead % + General Administration % = Combined Indirect Cost Rate (ICR) %
(= 0% if Included in OH) (= 0% if Included in OH)

FEE % = _____

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective date of hourly rate		Actual or Avg. hourly rate ³	% or \$ increase	Hourly range - for classifications only
	Straight	OT(1.5x)	OT(2x)	From	To			
John Doe – Project Manager Civil Engineer II	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	
Sue Jones – Construction Engineer/Inspector Engineer I	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	
Buddy Black – Claims Engineer Engineer III	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	
Land Surveyor *	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	
Technician	\$0.00	\$0.00	\$0.00	01/01/2000	12/31/2000	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2001	12/31/2001	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2002	12/31/2002	\$0.00	0.0%	

- Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.
- Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.
- For named employees enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

NOTES:

- Denote all employees subject to prevailing wage with an asterisks (*)
- For "Other Direct Cost" listing, see page 2 of this Exhibit

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #3)

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

PAGE NOT USED

Note: Mark-ups are Not Allowed

Consultant _____ Contract No. _____ Date _____

Page ___ of ___

Unit/Item of Work:

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

DIRECT LABOR	Hours	Hourly Billing Rate (\$)	Total (\$)
Professional (Classification)	_____	_____	_____
Sub-professional/Technical*	_____	_____	_____

EQUIPMENT (with Operator) _____

OTHER DIRECT COST

Description	Unit(s)	Unit Cost	
Mobilization/De-mobilization	_____	\$ _____	_____
Supplies/Consumables (Itemize)	_____	\$ _____	_____
Travel/Mileage	_____	\$ _____	_____
Report (if applicable)	_____	\$ _____	_____

TOTAL COST PER UNIT OF WORK

NOTES:

- Denote labor subject to prevailing wage with asterisk (*).
- Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- Hourly billing rates include hourly wage rate, net fee/profit, indirect cost rate, and actual direct equipment rate.
- Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- ODC items should be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered "tools of the trade" are not reimbursable.



EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT
(Inclusive of all DBEs listed at bid proposal. Refer to instructions on the second page of this form)

Consultant to Complete this Section			
1. Local Agency Name: City of Concord			
2. Project Location: Concord Various Streets Preservation (Concord Blvd and Arnold Industrial Way)			
3. Project Description: Various Streets Preservation (HMA Paving and FDR) Project No. 2292, Federal Project No. CML-5135(053)			
4. Consultant Name: <u>Swinerton Management & Consulting</u>			
5. Contract DBE Goal %: 7.0%			
DBE Commitment Information			
6. Description of Services to be Provided	7. DBE Firm Contact Information	8. DBE Cert. Number	9. DBE %
Special Inspections & Material Testing	Applied Materials & Engineering, Inc. Dushyant Manmohan (510) 420-8190	38639	7.0
Local Agency to Complete this Section		10. Total % Claimed	7.0 %
16. Local Agency Contract Number: <u>PROJECT 2292</u>			
17. Federal-aid Project Number: <u>STPL 5135(053)</u>			
18. Proposed Contract Execution Date: <u>4/5/16</u>			
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			
19. Local Agency Representative Name (Print) <u>MARK MISLIONE, PE</u>		11. Preparer's Signature <u>Robert Addiego</u>	
20. Local Agency Representative Signature <u>Mark Mislione</u>		12. Preparer's Name (Print) <u>Robert Addiego</u>	
21. Date <u>3/8/16</u>		13. Preparer's Title <u>Project Executive</u>	
22. Local Agency Representative Title <u>PROJ. MANAGER</u>		14. Date <u>01-19-2016</u>	15. (Area Code) Tel. No. <u>925-270-5636</u>
23. (Area Code) Tel. No. <u>925-671-3422</u>			

Distribution: (1) Original – Consultant submits to local agency with proposal
(2) Copy – Local Agency files

EXHIBIT 10-02 CONSULTANT CONTRACT DBE INFORMATION

(Inclusive of all DBEs listed at contract award. Refer to instructions following this form)

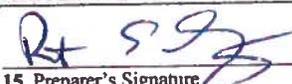
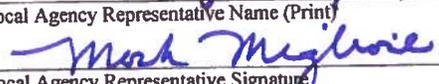
Consultant to Complete this Section			
1. Local Agency Name: City of Concord			
2. Project Location: Concord Various Streets Preservation (Concord Blvd and Arnold Industrial Way)			
3. Project Description: Various Streets Preservation (HMA Paving and FDR) Project No. 2292, Federal Project No. CML-5135(053)			
4. Total Contract Award Amount: \$ <u>121,880</u>			
5. Consultant Name: <u>Swinerton Management & Consulting</u>			
6. Contract DBE Goal %: 7.0%			
7. Total Dollar Amount for <u>all</u> Subconsultants: \$ <u>30,000 estimated</u>			
8. Total Number of <u>all</u> Subconsultants: <u>1</u>			
Award DBE/DBE Information			
9. Description of Services to be Provided	10. DBE/DBE Firm Contact Information	11. DBE Cert. Number	12. DBE Dollar Amount
Special Inspections & Material Testing	Applied Materials & Engineering, Inc. Dushyant Manmohan (510) 420-8190	38639	\$30,000
Local Agency to Complete this Section		13. Total Dollars Claimed	\$ <u>30,000</u>
20. Local Agency Contract Number: <u>PROJECT 2292</u>			
21. Federal-aid Project Number: <u>STPL 5135 (053)</u>		14. Total % Claimed	<u>7.0</u> %
22. Contract Execution Date: <u>4/5/16</u>			
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			
23. Local Agency Representative Name (Print) <u>MARIC MISLIURE, PE</u>		15. Preparer's Signature <u></u>	
24. Local Agency Representative Signature <u></u>			
25. Date <u>3/8/16</u>			
26. Local Agency Representative Title <u>PRJ. MANAGER</u>		16. Preparer's Name (Print) <u>Robert Addiego</u>	
27. (Area Code) Tel. No. <u>925-671-3472</u>		17. Preparer's Title <u>Project Executive</u>	
Caltrans to Complete this Section			
Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:			
28. DLAE Name (Print) _____		18. Date <u>03-07-2016</u>	
29. DLAE Signature _____		19. (Area Code) Tel. No. <u>925-270-5636</u>	
30. Date _____			

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 7.00 %

OR

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

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

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

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

4. DBE PARTICIPATION GENERAL INFORMATION

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).

- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

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

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

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

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the

purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to: subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
11. Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04