

## **PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MANAGEMENT AND INSPECTION**

WHEREAS, City of Costa Mesa ("CITY") proposes to have CONSULTANT perform construction management and inspection services for the Newport Boulevard Improvement Project as described herein below; and

WHEREAS, CONSULTANT represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

WHEREAS, CITY and CONSULTANT desire to contract for specific services in connection with the project described below (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

WHEREAS, no official or employee of CITY has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

### **ARTICLE I INTRODUCTION**

A. This contract is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, CITY:

The name of the CONSULTANT is JACOBS, incorporated in the State of California.  
The Project Manager for the "CONSULTANT" will be Joseph Jenkins  
The name of the "CITY" is City of Costa Mesa  
The Contract Manager for the CITY will be David Sorge.

Compliance with the provisions of the National Environmental Policy Act ("NEPA") occurs only after Caltrans signs the Categorical Exclusion ("CE"), Finding of No Significant Impact ("FONSI"), or Record of Decision ("ROD") and all mitigation commitments have been fully incorporated (constructed and/or implemented) into the action. (CFR 771.105[d]).

B. The work to be performed under this contract is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal. The approved CONSULTANT's Cost Proposal is attached hereto as (Exhibit A) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this contract, this contract shall take precedence.

C. The CONSULTANT agrees to protect, defend, indemnify and hold harmless the CITY, and its elected and appointed officials, officers, and employees from any and all claims, liabilities, expenses, including attorney fees, damage to property or injuries to or death of any person or persons or damages of any nature including, but not by way of limitation, all civil

claims or workers' compensation claims arising out of or in any way connected with the intentional or negligent acts, error or omissions of CONSULTANT, its employees, agents or subcontractors in the performance of this Agreement.

D. The CONSULTANT and the agents and employees of CONSULTANT, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the CITY. CONSULTANT shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for CONSULTANT and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

E. The CITY may terminate this agreement with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the CITY may proceed with the work in any manner deemed proper by the CITY. If the CITY terminates this agreement with the CONSULTANT, CITY shall pay CONSULTANT the sum due the CONSULTANT under this agreement for reasonable costs incurred and professional services satisfactorily performed up to and including the date of CITY's written notice of termination, unless the cost of completion to the CITY exceeds the funds remaining in the contract. In such case, the overage shall be deducted from any sum due the CONSULTANT under this agreement and the balance, if any, shall be paid the CONSULTANT upon demand. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the CITY or in the possession of the CONSULTANT.

F. CONSULTANT shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of CONSULTANT's interest in this Agreement without CITY's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of CITY's consent, no subletting or assignment shall release CONSULTANT of CONSULTANT's obligation to perform all other obligations to be performed by CONSULTANT hereunder for the term of this Agreement. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at CONSULTANT's sole cost and expense.

G. This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

H. The consideration to be paid CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

## **ARTICLE II STATEMENT OF WORK**

A. CONSULTANT shall provide the professional services described in the CITY's Request for Proposal ("RFP") attached hereto as Exhibit "B" and incorporated herein by reference and CONSULTANT's Response to CITY's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "C" and incorporated herein by this reference.

B. All professional services to be provided by CONSULTANT pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional CONSULTANTS in similar fields and circumstances in accordance with sound professional practices. CONSULTANT also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise CITY of any changes in any laws that may affect CONSULTANT's performance of this Agreement.

C. CONSULTANT warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. CONSULTANT shall indemnify and hold harmless CITY from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against CITY for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of CONSULTANT's performance under this Agreement.

## **ARTICLE III CONSULTANT'S REPORTS AND/OR MEETINGS**

A. The CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the Contract Manager to determine, if the 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. The CONSULTANT's Project Manager shall meet with the CITY's Project Manager, as needed, to discuss progress on the contract.

## **ARTICLE IV PERFORMANCE PERIOD**

A. This contract shall go into effect on January 6, 2009 contingent upon approval by the CITY, and the CONSULTANT shall commence work after notification to proceed by the CITY'S Contract Manager. The contract shall end on January 6, 2010, unless extended by

contract amendment. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

B. The CONSULTANT is advised that any recommendation for contract award is not binding on the CITY until the contract is fully executed and approved by the CITY.

C. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

#### **ARTICLE V ALLOWABLE COSTS AND PAYMENTS**

A. Progress payments may be made monthly in arrears based on the percentage of work completed by the CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, the CITY shall have the right to delay payment and/or terminate this Agreement in accordance with the provisions of Article VI Termination.

C. The CONSULTANT shall not commence performance of work or services until this contract has been approved by the CITY and notification to proceed has been issued by the CITY'S Contract Manager. No payment will be made prior to approval of any work, or for any work performed prior to approval of this contract.

D. The CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by the CITY'S Contract Manager of itemized invoices in triplicate. Invoices shall be submitted no later than 45-calendar days after the performance of work for which the 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 Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due the CITY that include any equipment purchased under the provisions of Article XVI Equipment Purchase of this contract. The final invoice should be submitted within 60-calendar days after completion of the CONSULTANT'S work. Invoices shall be mailed to the CITY'S Project Manager at the following address:

City of Costa Mesa, Transportation Services  
77 Fair Drive, Costa Mesa, CA 92626  
David Sorge, Project Manager

E. The total amount payable by the CITY shall not exceed Two Hundred Thirty-Three Thousand Seventeen Dollars and Ninety-Nine Cents (\$233,017.99).

F. All subcontracts in excess of \$25,000 shall contain the above provisions.

## **ARTICLE VI TERMINATION**

A. The CITY reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, upon thirty (30)-calendar days written notice to the CONSULTANT. In the event of such termination, CONSULTANT shall stop rendering services under this Agreement unless directed otherwise by the CITY.

B. In the event of termination, shall pay CONSULTANT for reasonable costs incurred and professional services satisfactorily performed up to and including the date of CITY's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the CITY or in the possession of the CONSULTANT.

C. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the CITY within ten (10) days of delivery of termination notice to CONSULTANT, at no cost to CITY. Any use of uncompleted documents without specific written authorization from CONSULTANT shall be at CITY's sole risk and without liability or legal expense to CONSULTANT.

## **ARTICLE VII FUNDING REQUIREMENTS**

A. It is mutually understood between the parties that this contract 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 the CITY for the purpose of this contract. In addition, this agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature or CITY governing board that may affect the provisions, terms, or funding of this contract in any manner.

C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.

D. The CITY has the option to void the contract under the 30-day cancellation clause, or by mutual agreement to amend the contract to reflect any reduction of funds.

## **ARTICLE VIII CHANGE IN TERMS**

A. This contract may be amended or modified only by mutual written agreement of the parties.

B. The CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by the CITY's Project Manager.

C. There shall be no change in the CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this contract without prior written approval by the CITY's Project Manager.

#### **ARTICLE IX DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

The CONSULTANT ensures that DBEs and other small businesses have the opportunity to participate in the performance of the work takes all necessary and reasonable steps for this assurance. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." DBE and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. Prior to commencing work pursuant to this Agreement, CONSULTANT shall complete and submit to CITY'S Project Manager, the CITY Proposer/Bidder DBE (Consultant Contract Information form, attached hereto as Exhibit "D" and and incorporated herein by reference. The CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement and subcontracts.

#### **ARTICLE X COST PRINCIPLES**

A. The CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.

B. The CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to the CITY.

#### **ARTICLE XI CONTINGENT FEE**

The CONSULTANT warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract 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 the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, the CITY has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

## **ARTICLE XII RETENTION OF RECORDS/AUDIT**

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; the CONSULTANT, subcontractors, and the CITY shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, the State Auditor, CITY, FHWA, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the CONSULTANT that are pertinent to the contract for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

Subcontracts in excess of \$25,000 shall contain this provision.

## **ARTICLE XIII DISPUTES**

A. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of the CITY'S Project Manager and Director of Public Services, who may consider written or verbal information submitted by the CONSULTANT.

B. Not later than 30 days after completion of all work under the contract, the CONSULTANT may request review by the CITY 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 the CONSULTANT from full and timely performance in accordance with the terms of this contract.

## **ARTICLE XIV AUDIT REVIEW PROCEDURES**

A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by the CITY'S CHIEF FINANCIAL OFFICER.

B. Not later than 30 days after issuance of the final audit report, the CONSULTANT may request a review by the CITY'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 the CITY will excuse the CONSULTANT from full and timely performance, in accordance with the terms of this contract.

## **ARTICLE XV SUBCONTRACTING**

A. The CONSULTANT shall perform the work contemplated with resources available within its own organization; and no portion of the work pertinent to this contract shall be

subcontracted without written authorization by the CITY'S Project Manager, except that, which is expressly identified in the approved Cost Proposal.

B. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all the provisions stipulated in this contract to be applicable to subcontractors.

C. Any substitution of subcontractors must be approved in writing by the CITY's Project Manager.

#### **ARTICLE XVI EQUIPMENT PURCHASE**

A. Prior authorization in writing, by the CITY's Project Manager shall be required before the CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. The 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 the CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by the CITY's Project Manager; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

C. Any equipment purchased as a result of this contract is subject to the following: "The 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 \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the CITY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, the CONSULTANT may either keep the equipment and credit the CITY 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 CITY procedures; and credit the CITY in an amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be determined at the 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 the CITY and the CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the CITY."

D. All subcontracts in excess \$25,000 shall contain the above provisions.

#### **ARTICLE XVII INSPECTION OF WORK**

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

#### **ARTICLE XVIII SAFETY**

A. The CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. The CONSULTANT shall comply with safety instructions issued by the CITY Project Manager and other CITY 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 Section 591 of the Vehicle Code, the CITY has determined that such areas are within the limits of the project and are open to public traffic. The CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. The 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.

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

#### **ARTICLE XIX INSURANCE**

A. CONSULTANT shall obtain and maintain during the life of this Agreement all of the following insurance coverages:

1. Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
2. Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
3. Workers' compensation insurance as required by the State of California.
4. Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. CONSULTANT shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

B. The comprehensive general liability insurance policy shall contain or be endorsed to contain the following provisions:

1. Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to this subject project and contract with City."

2. Notice: "Said policy shall not terminate, nor shall it be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City."
  3. Other insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- C. CONSULTANT shall provide to CITY certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by CITY, prior to performing any services under this Agreement.
- D. The CITY will not be responsible for any premiums or assessments on the policy.
- E. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which CONSULTANT may be held responsible for payments of damages to persons or property.
- F. The CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, the CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the contract, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of the CITY. In the event the CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, the CITY may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

#### **ARTICLE XX OWNERSHIP OF DATA**

- A. Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in the CITY; and no further agreement will be necessary to transfer ownership to the CITY. The CONSULTANT shall furnish the CITY all necessary copies of data needed to complete the review and approval process.
- B. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.
- C. The CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by the CITY of the machine-readable information and data provided by the CONSULTANT under this agreement; further, the CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by the CITY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as many be authorized in writing by the CONSULTANT.

D. Applicable patent rights provisions described in 41 CFR 1-91, regarding rights to inventions shall be included in the Agreements as appropriate.

E. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

#### **ARTICLE XXI CLAIMS FILED BY CITY'S CONSTRUCTION CONTRACTOR**

A. If claims are filed by the CITY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from the CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with the CITY'S Project Manager, construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

B. CONSULTANT's personnel that the CITY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from the CITY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the CONSULTANT's personnel services under this agreement.

C. Services of the CONSULTANT's personnel in connection with the CITY'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 finally resolve the claims.

D. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

#### **ARTICLE XXII CONFIDENTIALITY OF DATA**

A. All financial, statistical, personal, technical, or other data and information relative to the CITY's operations, which are designated confidential by the CITY and made available to the CONSULTANT in order to carry out this contract, shall be protected by the CONSULTANT from unauthorized use and disclosure.

B. Permission to disclose information on one occasion, or public hearing held by the CITY relating to the contract, shall not authorize the CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

C. The CONSULTANT shall not comment publicly to the press or any other media regarding the contract or the CITY's actions on the same, except to the CITY's staff, CONSULTANT's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.

D. The CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the CITY, and receipt of the CITY'S written permission.

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

## **ARTICLE XXIII NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

In accordance with Public Contract Code Section 10296, the 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 the CONSULTANT within the immediately preceding two-year period, because of the CONSULTANT's failure to comply with an order of a federal court that orders the CONSULTANT to comply with an order of the National Labor Relations Board.

## **ARTICLE XXIV EVALUATION OF CONSULTANT**

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

## **ARTICLE XXV STATEMENT OF COMPLIANCE**

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 Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

## **ARTICLE XXVI 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 has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the CITY.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

## **ARTICLE XXVII STATE PREVAILING WAGE RATES**

A. The State of California's General Prevailing Wage Rates are not applicable to this contract.

## **ARTICLE XXVIII CONFLICT OF INTEREST**

A. The CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this contract, or any ensuing CITY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing CITY construction project, which will follow.

B. 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.

C. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

D. The CONSULTANT hereby certifies that neither the CONSULTANT, its employees, nor any firm affiliated with the CONSULTANT providing services on this project prepared the Plans, Specifications, and Estimates for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

E. The CONSULTANT further certifies that neither CONSULTANT, nor any firm affiliated with the CONSULTANT, will bid on any construction subcontracts included within the construction contract. Additionally, CONSULTANT certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.

F. Except for subcontractors whose services are limited to materials testing, no subcontractor who is providing service on this contract shall have provided services on the design of any project included within this contract.

## **ARTICLE XXIX REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

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

## **ARTICLE XXX PROHIBITION OF EXPENDING CITY STATE OR FEDERAL FUNDS FOR LOBBYING**

A. The CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or CITY 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 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 of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative 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 federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; the CONSULTANT shall submit a completed Disclosure of Lobbying Activities form, attached hereto as Exhibit "E" and incorporated herein by reference, in accordance with its instructions.

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

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 subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

#### **ARTICLE XXXI NOTIFICATION**

Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or registered or certified mail, return receipt requested, postage prepaid and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery and 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through United States mail.

**CONSULTANT:** JACOBS  
Joe Jenkins, Project Manager  
5757 Plaza Drive, Suite 100  
Cypress, CA 90630

**CITY:** CITY OF COSTA MESA  
David Sorge, Contract Manager  
77 Fair Drive, Costa Mesa, CA 92626

## ARTICLE XXXII MISCELLANEOUS

A. Drug-free Workplace Policy. CONSULTANT shall provide a drug-free workplace by complying with all provisions set forth in City of Costa Mesa's Council Policy 100-5, attached hereto as Exhibit "F" and incorporated herein by reference. CONSULTANT's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by CITY.

B. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

C. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

D. Public Records Act Disclosure: CONSULTANT has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by CONSULTANT, or any of its subcontractors, and provided to CITY may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which CONSULTANT informs CITY of such trade secret. The CITY will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The CITY shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

E. Responsibility for Errors. CONSULTANT shall be responsible for its work and results under this Agreement. CONSULTANT, when requested, shall furnish clarification and/or explanation as may be required by the CITY's representative, regarding any services rendered under this Agreement at no additional cost to CITY. In the event that an error or omission attributable to CONSULTANT occurs, then CONSULTANT shall, at no cost to CITY, provide all necessary design drawings, estimates and other CONSULTANT professional services necessary to rectify and correct the matter to the sole satisfaction of CITY and to participate in any meeting required with regard to the correction.

F. Prohibited Employment: CONSULTANT will not employ any regular employee of CITY while this Agreement is in effect.

G. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this

Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

H. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

I. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of CITY and CONSULTANT and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

J. Headings: Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

K. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

L. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

Contractor, who is engaged in the construction, prosecution, completion or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the Federal government, shall furnish each week to CITY a statement with respect to the wages of each of its employees during the preceding weekly payroll period.

M. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith

negotiations.

N. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

O. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

P. Certifications: Prior to beginning work under this Agreement, CITY's Contract Administrator shall submit a completed Certification of Local Agency form, attached hereto as Exhibit "G" and incorporated herein by reference. CONSULTANT shall submit a completed Certification of Consultant form, attached hereto as Exhibit "H" and incorporated herein by reference.

**ARTICLE XXXIII AGREEMENT**

The two parties to this agreement, who are the before named CONSULTANT and the before named CITY, 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 made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this agreement as evidenced by the signatures below.

**ARTICLE XXXIV SIGNATURES**

CITY OF COSTA MESA,  
A municipal corporation

\_\_\_\_\_  
Mayor of the City of Costa Mesa

Date: \_\_\_\_\_

JACOBS

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Social Security or Taxpayer ID Number

ATTEST:

\_\_\_\_\_  
City Clerk and ex-officio Clerk  
of the City of Costa Mesa

APPROVED AS TO FORM:

*Kimberly Hall Bedow*  
City Attorney

Date: 12/17/08

APPROVED AS TO INSURANCE:

\_\_\_\_\_  
Risk Management

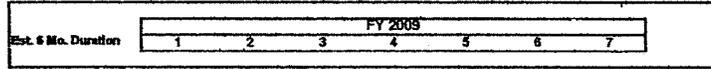
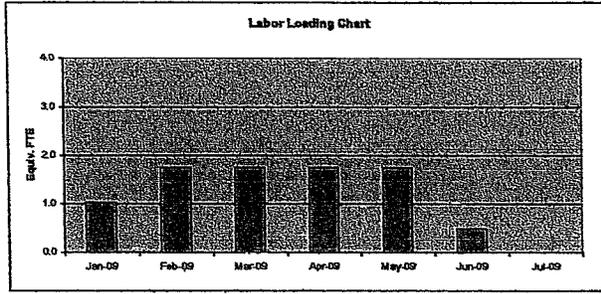
Date: \_\_\_\_\_

APPROVED AS TO CONTENT:

*David Lopez*  
Project Manager

Date: 12/18/08

**EXHIBIT A**  
**COST PROPOSAL**



Newport Boulevard Improvement Project

Raw	Bill Rate	No.	Name	Position	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-09	Sub-Total	Billing Rate	Total Cost
\$ 63.80	\$ 139.42	1	Karim Vanehchi	Resident Engineer	80	80	80	80	80	40		440	\$ 139.42	\$ 61,343
\$ 67.77	\$ 148.09	2	Chuck Williams	Assistant RE	80	176	176	176	176	40		824	\$ 148.09	\$ 122,027
\$ 30.29	\$ 66.19	3	Clementine Yu	Office Engineer		20	20	20	20			80	\$ 66.19	\$ 5,295
\$ 73.00	\$ 159.82	4	Josanne Schultz	Scheduler	4	4	4	4	4			20	\$ 159.82	\$ 3,190
\$ 52.88	\$ 115.56	5										-	\$ 115.56	\$ -
<b>Sub Total Labor Hours</b>					184	280	290	280	280	80	-	1,384		\$ 191,855
<b>Eqv. FTE</b>					1.0	1.8	1.8	1.8	1.8	0.5	-			

ODCs

(Streetscape Enhancements including decorative sidewalks and crosswalks, ornamental streetlighting, landscape and irrigation, and ADA Improvements)

Cost	No.	Expense	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-09	Sub-Total	Total Cost
\$ 1,250.00	3	1 Vehicles	\$ 500.00	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00	\$ 600.00	-	8,700	\$ 8,700
\$ 80.00	3	2 Phones	\$ 75.00	\$ 112.50	\$ 112.50	\$ 112.50	\$ 112.50	\$ 37.50		563	\$ 563
\$ 750.00	1	3 Misc Expenses	\$ 500.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00			900	\$ 900
	4	Material Testing								-	\$ 31,000
<b>Subtotal ODCs</b>											\$ 41,163
<b>Total</b>											\$ 223,017.98

**EXHIBIT B**  
**REQUEST FOR PROPOSAL**



# CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. BOX 1200

FROM THE OFFICE OF THE TRANSPORTATION SERVICES MANAGER

**November 6, 2008**

Harris & Associates  
34 Executive Park, Suite 150  
Irvine, CA 92614  
Jimmy Guerrero

**SUBJECT: REQUEST FOR PROPOSAL FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES**

**Dear Consultant:**

The City of Costa Mesa is requesting proposals and Statements of Qualifications to provide Construction Management and Inspection Services for the Newport Boulevard Improvement Project. The attached Scope of Services details specific requirements requested by this Request for Proposals (RFP), and the enclosed Layout Sheets and Bid Schedule identify the proposed improvements. The project will require Caltrans oversight, and implementation shall conform to the State of California Department of Transportation (Caltrans) standards and procedures.

## **PROJECT SCHEDULE AND MILESTONES**

This subject construction management services contract is tentatively scheduled for award on January 6, 2009. Construction is scheduled to commence January 12, 2009, with completion proposed within 95 working days. The majority of construction is scheduled as night work between the hours of 10 PM and 6 AM. Within two (2) days of the receipt of the Notice to Proceed, the Consultant shall provide a detailed schedule for the implementation of the project based on information from the contractor, City and design consultant. A Critical Path Method (CPM) network shall be prepared on activities supporting all project tasks and milestones. The information should be in the form of a bar chart and show a deliverables schedule and other relevant data needed for the completion of the Project.

## **AGENCY ROLES AND RELATIONSHIPS**

The City of Costa Mesa will serve as lead agency on the project and be responsible for project administration, contractual agreements and adherence to the budget. Direct oversight by Caltrans will be provided on all construction elements. Special attention is directed to Section D, Community Coordination of the attached Scope of Services. It is essential that the consulting firm demonstrate a thorough understanding of potential construction impacts to the business and residential community, be familiar with impact remediation measures, and illustrate experience as an effective liaison for City, business and residential interests.

## **CONTENT OF PROPOSAL**

It is requested that the following be submitted with your proposal:

- A narrative understanding of the project and work plan, and any suggestions you might have to expedite the project or special concerns of which the City and State should be advised.
- A detailed schedule indicating stages of work, sub-tasks and time frames.
- An organization chart and staffing plan identifying personnel who will perform work on this project, a brief resume on each individual (two page maximum per person) and recent projects they have worked of a similar type. Identify the project manager with a detailed resume, and the individual authorized to negotiate the contract on behalf of the consulting firm.
- A listing of similar improvement projects that your firm has completed within the last five years. Information should include a description of work, year completed, cost, and agency/client name along with the agency contact person.
- Comply with the Professional Services Agreement requirements (see attached agreement).
- Submittal of **three (3)** duplicate proposals are requested.

## **FEE SCHEDULE**

The professional services contract fee is to be submitted in a separate envelope. The fee schedule should show the hourly cost of personnel per task under each phase, with a total not-to-exceed amount for the project. The consultant's cost proposal for the prime and subcontractors should contain a breakdown of all cost components including labor base rate, other direct costs, overhead, and fees in compliance with the attached Scope of Services, and include all associated work including survey and materials testing required to provide the intended services. It is requested that the fee, including meetings, reproduction, materials, and associated project expenses be itemized.

## **EVALUATION CRITERIA**

- A. Qualification of the Firm – Technical experience in performing work of a closely similar nature including Caltrans State Route projects; experience with Caltrans Local Assistance Procedures; record of completing work on schedule; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors; and assessment by client references.
- B. Management Approach – Qualification of key project staff, particularly the project manager, key personnel's level of involvement in performing related work; logic of project organization; adequacy of labor commitment; concurrence in the restriction of changes in key personnel; approach taken for quality and budget control.
- C. Work Plan – Depth of consultants understanding of City and Caltrans requirements and overall quality of work plan; logic, clarity and specificity of work plan and variances proposed to the work plan; utility of technical or procedural innovations. Clearly document procedures to ensure successful project completion on time and under budget.
- D. Miscellaneous – Acceptability of exceptions and deviations, if any, completeness of responses in accordance with RFP, and other relevant factors not considered elsewhere.

## **CONTRACT CHANGES**

Any change in the Scope of Work resulting in a contract increase or decrease in fee shall be approved by the City **in writing prior to commencement** of any change in work. No fee adjustment will be allowed unless said **prior approval** is authorized exclusively **in writing** by the City, without exception.

**RIGHT TO REJECT ALL PROPOSALS**

The City of Costa Mesa reserves the right to reject any or all proposals submitted, and no representation is made hereby that any contract will be awarded pursuant to this request for proposal, or otherwise. All costs incurred in the preparation of the proposal, in the submission of additional information, and/or in any other aspect of a proposal prior to the award of a written contract will be borne by respondent. The City will provide only the staff assistance and documentation specifically referred to herein and will not be responsible for any other cost or obligation of any kind that may be incurred by a respondent. All proposals submitted to the City of Costa Mesa in response to this request for proposals shall become the property of the City.

Enclosed is the City of Costa Mesa professional services standard agreement and sample certificate of insurance for reference in preparing the proposal. The minimum insurance and endorsement requirements are stated within the enclosed documents. Should your firm be interested in submitting a proposal for this project, please forward to the City of Costa Mesa, Transportation Services Division, 4th floor City Hall, on or before 5:00 p.m. December 4, 2008. If additional information is required, please contact me at (714) 754-5183, or email at: [ddsorge@ci.costa-mesa.ca.us](mailto:ddsorge@ci.costa-mesa.ca.us).

Sincerely,



DAVID SORGE  
PROJECT MANAGER

Attachments: Scope of Services, Layout Plans and Agreement

cc: Peter Naghavi, Director, Public Services  
Ernesto Munoz, City Engineer  
Raja Sethuraman, Transportation Services Manager  
Tom Banks, Senior Engineer

# SCOPE OF SERVICES

## FOR NEWPORT BOULEVARD IMPROVEMENT PROJECT

### CONSTRUCTION MANAGEMENT

#### **I INTRODUCTION AND PURPOSE**

The City of Costa Mesa is seeking proposals and statements of qualifications for construction management services for the Newport Boulevard Improvement Project. These services generally include inspection, contract administration, soils and material testing and other services as outlined in this scope of work. The selected engineering firm (Consultant) will designate an individual who is a registered Professional Engineer to serve as the construction Resident Engineer. The Resident Engineer shall be responsible for all matters related to the Consultant's personnel and operations, and provide plan reviews, inspection, quality assurance materials testing, and contract administration under the overall supervision of the City's Project Manager. The Consultant shall provide a certified laboratory for soil and material testing services. Inspection personnel shall be full time and/or on an as-needed basis and provide assistance to, and work under the direction of the Resident Engineer.

#### **II Project Description**

The project consists of constructing roadway and streetscape improvements along Newport Boulevard extending from 17<sup>th</sup> Street to 19<sup>th</sup> Street as defined by the attached plans and Proposal Bid Item Schedule. Newport Boulevard is a Caltrans facility and all proposed construction engineering work shall be consistent with Caltrans standards and procedures. Pursuant to the approved Transportation Management Plan (TMP) and traffic control plans, all major roadway construction work is scheduled during night periods between 10 PM and 6 AM to minimize traffic impacts to this heavily traveled corridor. The estimated construction cost is \$5,970,000. Project components include:

- ❖ 4<sup>th</sup> northbound lane from 17<sup>th</sup> Street to north of 19<sup>th</sup> Street
- ❖ 4<sup>th</sup> southbound lane from the SR-55 freeway terminus to Broadway.
- ❖ Bus turn-out on the east side of Newport Boulevard north of 17<sup>th</sup> Street
- ❖ Southbound right-turn lane at 17<sup>th</sup> Street
- ❖ New sidewalk on west side of Newport Boulevard north of 17<sup>th</sup> Street
- ❖ Center median, curb and asphalt reconstruction
- ❖ Traffic signal and street light modifications
- ❖ Landscaping and streetscape enhancements including palms, planters, ornamental lighting, decorative sidewalks and crosswalks
- ❖ ADA pedestrian facility, bus stop and handicap ramp upgrades

Funding for the Newport Boulevard Improvement Project includes two Orange County Transportation Authority (OCTA) Intersection Improvement Program (IIP) grants in the total amount of \$3,977,000, a Federal Transportation Enhancement Activities (TEA) grant of \$1,000,000, a Caltrans SHOPP allocation of \$330,000, and other sources. The IIP and TEA grants require separation of respective project costs and accordingly contract bid items shall be tracked per the following scopes identified by the bid schedule:

Base Project: Roadway work along Newport Boulevard from 17<sup>th</sup> to 19<sup>th</sup> Streets

TEA Project: Streetscape enhancements including decorative sidewalk and crosswalks, ornamental street lighting, landscape and irrigation, and ADA improvements.

#### **III SCOPE OF SERVICES**

Construction work is anticipated to begin on January 12, 2009 and extend 95 working days. The final number of personnel and exact duration of assignments may be adjusted by the City prior to executing the contract and the notice to proceed. Authorization of a Construction Management contract is exclusively at the

discretion of the City and contingent on funding availability. Consultant personnel shall be available within two (2) days of written notification by City (notice anticipated on January 7, 2009), and available up to a maximum of six (6) weeks after Caltrans acceptance of the construction project.

It is imperative that the selected Consultant have extensive roadway and streetscape engineering and construction management experience. A registered civil engineer with extensive construction management and experience with Federal Aid projects involving road widening along Caltrans facilities is essential. The selected Consultant will provide complete construction management services including: labor compliance, processing change orders and RFI's, construction management, coordination, scheduling, administration, inspection, quality assurance materials testing, drawing submittal review and approval coordination, project records and preparing project close-out documents. Based on the OCTA IIP grants and Federal TEA grant, it is mandatory that the consultant maintain separate accounting records on the two projects and respective contract bid items.

The Consultant shall provide complete technical and administrative services to ensure successful project completion on time and under budget, and provide coordination oversight for all activities taken by outside entities in connection with the project including utility companies, OCTA and adjacent business owners. The Consultant shall maintain a close liaison with the City's Project Manager and Caltrans.

The minimum qualifications for the position of Resident Engineer shall be as follows:

- a) Four years of project management experience on similar state highway construction projects.
- b) Licensed Civil Engineer in the State of California.
- c) Ability to use typical computer programs such as Microsoft WORD, EXCEL and PROJECT.
- d) Accessible to the City and Caltrans at all times during working hours.
- e) In-depth experience with Federal and State contract administration records and report requirements.

The minimum qualifications for the position of Field Inspectors shall be as follows:

- a) Four years of construction inspection experience on similar state highway projects.
- b) Knowledge of construction practices, physical characteristics and properties of highway construction materials, and methods and equipment for physical testing of construction materials.
- c) Ability to work independently.
- d) Ability to use typical computer programs such as Microsoft Word and Excel.

The City Project Manager will administer the Consultant contract and provide general direction to the Consultant. Resumes of personnel shall be submitted to City for review and approval prior to assignment to a task. City and Consultant will have the responsibility of determining the quality and quantity of work performed by the Consultant's employees. If, at any time, the level of performance is below expectations, City may release a Consultant's personnel and request another person be assigned as needed.

When an employee is on a leave of absence, the Consultant shall provide an equally qualified replacement employee until the assigned employee returns to work. The replacement employee shall meet all the requirements of a permanently assigned employee.

The typical workday includes all hours worked by the construction contractor generally between 10 PM and 6 AM weeknights, at 40 hours per week. If ordered by the City, overtime for the Consultant's employees may be required. The construction contractor's operations may be restricted to specific hours during the week, which shall become the normal workday for Consultant's personnel. On days when work is not performed by the construction contractor, such as rainy or unsuitable weather days, Consultant services shall not be provided unless authorized by the Project Manager. The Project Manager will provide 8 hours advance notice if Consultant services are not required.

All personnel shall be knowledgeable of and comply with all applicable local, Caltrans and Federal regulations. The Consultant shall cooperate and consult with City and Caltrans officials during the course of the contract, and perform other duties as may be required to assure that the construction is being performed in accordance with the project plans and specifications. The Consultant's personnel shall keep records and

document work in accordance with Caltrans' Construction Manual and the Local Assistance Procedures Manual.

General duties provided by the Consultant shall include:

- Perform and assist in performing the duties of construction inspection and engineering including: grading, demolition, paving and subgrade inspection, electrical inspection, drainage, signing and striping inspection, landscaping inspection, quantity calculations, checking grade and alignment, construction traffic control, materials sampling and testing and ensuring compliance with project plans and specifications.
- Identify actual and potential problems associated with the construction project and recommend sound engineering solutions to the City. Analyze the plans and specifications for possible errors and deficiencies and report such findings to the City.
- Maintain an awareness of safety and health requirements and enforce applicable regulations and contract provisions for the protection of the public and project personnel.
- Maintain continuous communications with the field personnel, construction administration and City staff and with project neighbors to resolve community project problems and to advise them of work conditions affecting businesses and the neighborhood.
- Prepare calculations, records, reports and correspondence related to project activities. Perform analytical calculations for items such as basic earthwork and grading, special staking procedures and redesigning facilities to fit existing field conditions, and preparation of "As-Built" plans.
- If the City determines that changes are necessary, the Consultant's personnel shall prepare Change Orders in accordance with Caltrans' Standard Specifications.
- Perform required field tests and compliance testing such as relative compaction, concrete slump tests, concrete cylinders, and other required field-tests.
- Prepare claims reports and be available for any claims settlement meetings.
- Process monthly progress payment reimbursement requests for Federal portions of work.
- Review of contractor's CPM schedule and construction staging plans, and issue comments. Recommend recovery schedules when needed.
- Oversee Contractor's Storm Water Pollution Prevention (SWPP) responsibilities.

Tasks to be provided by the Consultant shall include, but not limited to:

A. Initial-construction Phase

- Conduct a peer review of construction PS&E, and comment on constructability.
- Initiate computerized project control system.
- Review project SWPPP.
- Assist in implementing public relations outreach plan.
- Review and comment on Contractor's submitted Schedule of Work.
- Review Contractor's notifications to utilities and proposed scheduling with utilities.
- Review and coordinate analysis of Contractor's submittals with the Project Manager.
- Conduct pre-construction conference.

B. Construction - Provide all project administration services including:

- Perform site inspections
- Provide inspectors for day and night on-the-job continuous inspection of work. The inspectors shall make reasonable efforts to guard against defects and deficiencies in the work of the Contractor and ensure that provisions of the contract documents are being fulfilled:
  - Prepare daily inspection reports documenting observed construction activities.
  - Take and maintain digital photographs providing documentation of construction activities; bind, label and date them.
  - Prepare field blue-line set of drawings to incorporate the Contractor record drawing markups.
  - Assist in monthly progress payment recommendations by making measurements of bid items.
- Conduct weekly project meetings, prepare minutes and distribute to designated parties.
- Monitor project budget, purchases and payments.
- Review the updated construction schedules and maintain records.
- Establish and process job control documents including:

- daily inspection diaries.
- weekly progress reports
- monthly construction payments
- requests for information
- material receipts
- weigh certificates
- material submittals
- weekly statements of working days
- construction change orders
- review of certified payroll records and labor compliance documents
- Review of schedule updates:
  - Compare work progress with planned schedule and notify the Construction Contractor of project slippage. Review the Contractor's plan to get back on schedule.
  - Obtain weekly updates from the Contractor on the construction schedule incorporating actual progress, weather delays and change order impacts.
  - Analyze the schedule to determine the impact of weather, unforeseen conditions and extra work.
  - Negotiate time extensions due to change orders or other delays.
  - At the end of each month, submit to Project Manager a progress report based on actual work accomplished consisting of a written narrative describing the overall progress, significant problems, proposed corrective action, and status of major changes. Progress payments shall be based on substantiated (earned value) reporting.
- Assist Project Manager in negotiation of change orders:
  - Perform quantity and cost analysis as required for negotiation of change orders.
  - Analyze additional compensation claims that are submitted during the construction period and prepare responses.
  - Perform claims administration including coordinating and monitoring claims responses, logging claims and tracking claim status.
- Review, comment and facilitate responses to Requests For Information:
  - Prepare responses to RFI related construction issues.
  - Transmit product and design-related RFI's to the Project Manager.
  - Conduct meetings with the Construction Contractor and other parties as needed to discuss and resolve RFI's.
- Evaluate cost reduction incentive proposals and provide recommendations to the Project Manager for acceptance or denial.
- Monitor and enforce Construction Contractor's compliance with SWPPP.
- Identify actual and potential problems associated with the construction project and consult with the Project Manager and the design engineer.
- Maintain an awareness of safety and health requirements and enforce applicable regulations and contract provisions for the protection of the public and project personnel.
- Facilitate any necessary utility coordination with all utility companies and the Construction Contractor. Coordinate, schedule, implement and monitor utility relocations.
- Prepare monthly progress payment requests; negotiate differences over amount with the Construction Contractor and process payments through the Project Manager.

**C. Quality Assurance.** The Consultant shall enforce the quality assurance plan, in conformance with the plans and specifications.

- Schedule and perform quality assurance materials testing to verify compliance of the work with the contract documents, including source inspections and materials acceptance.
- CONSULTANT shall provide certified laboratory facilities to perform soils and materials testing services on an as needed basis. CONSULTANT shall provide appropriate material testing personnel with "Certificate of Proficiency in Construction Materials Testing." Under the direction of Resident Engineer, appropriate material testing personnel shall perform field-testing of materials to achieve compliance with the Contract and Caltrans Specifications.
- Exhibit A lists the normal laboratory tests required by Caltrans for a typical project.
- The laboratory, whether temporary or permanent, is to be in the general vicinity of the project area and no more than 30 miles from the project.

- Testing shall be performed in accordance with the California Test Methods as specified in the Caltrans "Manual of Testing" and shall meet the latest requirements of ASTM.
- Testing machines must be calibrated annually or more frequently by impartial means using devices of accuracy traceable to the National Bureau of Standards and must be Caltrans certified and approved.
- The laboratory shall participate in the AASHTO Materials Reference Laboratory (AMRL) or Cement or Concrete Reference Laboratory (CCRL) inspection programs as appropriate. Copies of applications, correspondence, reports, and corrective actions shall be provided to Caltrans if requested.
- The Laboratory shall participate in Caltrans' Reference Sample Program as appropriate.
- The Laboratory shall have a quality control plan in effect during the entire time work is being performed under the contract. The plan shall include quality control, quality assurance, and equipment calibration programs for the laboratory. A copy of the Quality Control Plan shall be provided to the City Project Manager and Caltrans.
- The Laboratory shall maintain an inventory of the testing equipment (listing the manufacturer, model serial number, calibration, and tolerances). A copy of the initial inventory shall be provided to Caltrans at the beginning of the project. Throughout the duration of the project, the laboratory shall make the updated inventory available for review by Caltrans upon request.
- The Laboratory shall maintain a laboratory procedure manual describing the methods used for recording, processing, and reporting data, the sources of reference material, standards, and test methods.
- The CONSULTANT and the Laboratory shall be responsible for all soils and materials testing performed for the project including source testing if required. Records and laboratory reports shall include all pertinent information and be presented legibly on Caltrans or Caltrans approved forms.
- Oversee the Contractor's compliance with Caltrans Materials Engineering and Testing Services (METS) procedures and certifications for traffic signal pole and sign manufacturing inspections.

**D. Community Coordination** - The Consultant shall be responsible for overseeing construction coordination with the business community along the project corridor. It is imperative that the Consultant carefully coordinate all construction activities between the Contractor and businesses along Newport Boulevard to eliminate any impacts to commercial and office centers. Community coordination work shall include:

- Serve as primary contact and authority on all construction activities to the adjacent business community.
- Compile file on all queries and discussions with the business community, identifying the business and contact name, phone number, address, the nature and date of the discussion, and any action taken.
- Review Contractor's construction "Public Notices" relative to dates, times and type of work proposed, to avoid business impacts. Assure Contractor releases notices to each building unit and property owner within and in proximity to the work area, and well in advance of work.
- Closely monitor daily construction activities and provisions to assure no business impacts occur.
- On work focused in specific areas, coordinate with the Contractor to release focused Public Notices as they pertain to each business.
- Assure safe and acceptable access provisions are maintained throughout the project during all open business hours, without exception.
- Coordinate approval of temporary "No Parking" areas with the Project Manager and adjacent businesses.
- Notify the Project Manager immediately of any significant issue.

**E. Traffic control and Safety** - As required to safely complete the required inspection or survey work, the Consultant shall review Contractor's traffic control, including lane closures in accordance with the approved traffic management plan and latest edition and revisions of the Caltrans Manual of Traffic Controls for Construction and Maintenance Work Zones and requirements herein.

- The Consultant shall assure conformance to the safety provisions of the Caltrans Construction and Survey Manuals, and assure compliance with any directives from the Safety Meeting and as required by the Project Manager and Caltrans.

- The Consultant's personnel shall wear white hard hats, OSHA-approved vests and rubber-soled shoes at all times while working in the field.
- The Consultant shall provide appropriate safety training for all their personnel required to work on and near highways.
- All safety equipment shall be provided by the Consultant.
- Assure night lighting and traffic control provisions are adequate and safe.

**F. Post-Construction Phase**

- Prepare initial punch list and consolidate comments into final punch list.
- Finalize the bid items, claims, change orders, punch list items and correct shop drawings.
- Oversee completion of record drawing.
- Prepare Report of Expenditures Checklist including all necessary attachments.
- Transmit all project files and record drawing to Project Manager for archiving.
- Support construction claims analysis and litigation.

**G. Federal Contract Management Requirements –** Based on Federal funding attributed to the project, it shall be the Consultant's responsibility to assure all work, materials and records comply with Federal contract administration practices and the Caltrans Local Assistance Procedures Manual, and that all appropriate documentation is prepared and retained, including:

- Conduct preconstruction conference with Caltrans personnel.
- Construction documents maintained and organized per the Project Record Filing System for Locally Administered Federal-aid Projects.
- Daily Report, including description, quantities placed, work completed, statements, hours, subcontractors; on-site interviews; poster displays; notice of materials; construction claim reports; utilization of DBE subcontractors and suppliers; certificates of compliance; material testing and all other required Federal documentation.
- Enforcement of Labor Compliance requirements, including completion of federal Labor Compliance Pre-job checklist.
- Affirmative action/DBE documentation.
- Enforcement of Quality Assurance requirements.
- Review Certified Payroll, EEO status and fringe benefit documents from the Contractor for compliance with the Federal labor standards provisions and higher wage determination decisions (state and federal).

**H. Miscellaneous Equipment, Vehicles and Tools -** Consultant shall provide all necessary instruments, tools and safety equipment required for their personnel to perform their work accurately, efficiently, and safely, including:

- One vehicle (truck) for each inspector. Vehicles shall be equipped with internally controllable affixed and OSHA certified amber flashing lights, fire extinguishers, spare tires and lockable toolboxes. All vehicles shall be maintained in good operating condition.
- Caltrans approved nuclear gauges for inspection personnel to perform soils relative compaction field tests.
- Other field materials such as testing equipment and safety equipment, for use by staff on the project.
- All necessary safety equipment required to perform the work efficiently and safely.
- Consultant personnel shall be provided with radio or cellular-equipped vehicles, digital camera, and personal protective equipment suitable for the location and nature of work involved.

November 25, 2008

**NOTICE TO BIDDERS/PROPOSERS  
DISADVANTAGED BUSINESS ENTERPRISE INFORMATION**

**1. TERMS AS USED IN THIS DOCUMENT**

- The term "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term "bidder" also means "proposer" or "offerer."
- 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 Agreements 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 Contractor should 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 bidder/proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

B. Bidders/Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

**3. SUBMISSION OF DBE INFORMATION**

A "Local Agency Proposer/Bidder-DBE (Consultant Contracts)-Information" form will be included in the Agreement documents to be executed by the successful bidder. The purpose of the form is to collect data required under 49 CFR 26. Even if no DBE participation will be reported, the successful bidder must execute and return the form.

**4. DBE PARTICIPATION GENERAL INFORMATION**

It is the bidder'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 contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.

C. 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.

D. 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.

E. The bidder (prime contractor) shall list only one subcontractor for each portion of work as defined in their bid/proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.

F. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

## **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. Bidder/Proposer may call (916) 440-0539 for web or download assistance.

B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program website at: <http://www.dot.ca.gov/hq/bep/>.

- Click on the link in the left menu titled Find a Certified Firm
- Click on Query Form link, located in the first sentence
- Click on Certified DBE's (UCP) located on the first line in the center of the page
- Click on Click To Access DBE Query Form
- Searches can be performed by one or more criteria
- Follow instructions on the screen
- "Start Search," "Requery," "Civil Rights Home," and "Caltrans Home" links are located at the bottom of the query form.

C. How to Obtain a List of Certified DBEs without Internet Access:

**DBE Directory:** If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the on-line database. A copy of the directory of certified DBEs may be ordered from the Caltrans Division of Procurement and Contracts/Material and Distribution Branch/Publication Unit, 1900 Royal Oaks Drive, Sacramento, CA 95815, Telephone: (916) 445-3520.

## **6. WHEN REPORTING DBE PARTICIPATION, MATERIAL OR SUPPLIES PURCHASED FROM DBES MAY COUNT AS FOLLOWS:**

A. If the materials or supplies are obtained from a DBE manufacturer, one hundred percent of the cost of the materials or supplies will count toward the DBE participation. 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 Agreement and of the general character described by the specifications.

B. If the materials or supplies purchased from a DBE regular dealer, count sixty percent of the cost of the materials or supplies toward DBE participation. 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 Agreement 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.

**7. WHEN REPORTING DBE PARTICIPATION, PARTICIPATION OF DBE TRUCKING COMPANIES MAY COUNT AS FOLLOWS:**

A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible.

B. The DBE must itself own and operate at least one fully licensed, insured and operational truck used on the Agreement.

C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.

D. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.

E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.

F. For the purposes of this Section D, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

**EXHIBIT C**  
**RESPONSE**  
**and**  
**SCOPE OF SERVICES**

## ***SCOPE OF SERVICES***

We will provide the following scope of services for the Newport Boulevard Improvement Project.

### **A. Initial-Construction Phase**

#### ***Meeting Your Expectations***

We will represent the City and protect your interest during construction of the new infrastructure to ensure the City receives a quality product at the best value. To ensure that we understand your expectations for our services, we will conduct a client expectation survey within 30-days of notice-to-proceed. Our project resident engineer and project principal will conduct the expectation survey with the City's Project Manager and other appropriate City staff. Our client survey process is a formalized program that allows us to understand your priorities for the project and reviews your expectations for safety, our scope of work, communications, scheduling, costs, inspection services, management support and other items of importance to the project.

Within 45-days after notice-to-proceed the Project Principal will conduct our first client quality survey to evaluate our overall performance and to identify opportunities for improvements. The project Principal will continue to conduct these quality surveys every two months or at project completion. These surveys keep us focused on meeting your expectation throughout the duration of the project and ensure that you receive the best value for our services.

#### ***Establishing Procedures for Administration of the Project.***

We will prepare a detailed project-specific procedures manual for use by the members of the project team. Our existing policies and procedures will be modified to reflect the specific requirements or procedures for each project. The manual is the basis for our field activities, providing a clear statement of how we intend to administer the work. The manual contains information concerning the division of responsibilities between the project staff, contact information, communication and correspondence formats, document control procedures and project approach.

We will meet with the City Staff to discuss contract administration features. During the meeting we will review the project organization, lines of authority, lines of communication, personnel assignments, project deliverables, project schedule, QA program, invoicing instructions and safety issues.

#### ***Submittals***

During our review of the plans and special provisions we will develop a submittal requirements log to identify submittal requirements including responsibilities for reviewing, review times and submission due dates. This detailed analysis also helps us prepare for the preconstruction conference and helps to ensure that all responsible parties have a good understanding of their responsibilities resulting in minimizing/eliminating project delays due to untimely shop drawing submittals or reviews. All submittals will be stamped the date received, entered in the submittal log, distributed to the appropriate review parties and tracked for progress until completed.

#### ***Pre-Construction Meeting***

Prior to the start of construction we will prepare a detailed agenda and conduct the preconstruction conference for the project. We prepare and disseminate minutes of the preconstruction conference.

## **B. Construction**

### ***Site Inspection***

Our proposed team members are trained and experienced in the application and enforcement of Caltrans Contract Provisions, Cal/OSHA construction safety requirements, Storm Water Pollution Prevention Plan (SWPPP) requirements, Standard Specifications for Public Works Construction, and traffic maintenance methods. We are a proactive inspection team, aware of the importance of high-quality construction. Our inspectors are fair and firm, ensuring that work is completed as specified in the contract documents and the City's standards. Our inspectors are adept at identifying potential and existing construction problems and providing solutions to solve these problems. Our inspectors' authority; however, does not include dictating methods of construction to the contractor's team.

Assisting and participating in identification and solution of problems is a key function of our team. Our previous experience with Caltrans and other highway construction projects has trained our personnel to quickly identify actual and potential problems associated with project safety, traffic control, project plans, or the construction process.

Responsibilities of our inspection team include, but are not limited to:

- Ensuring compliance by the contractor with the City's standards and procedures and the contract plans and specifications.
- Preparing detailed daily diaries of construction activities, construction progress, material test results, project issues, deficiencies, problems with resolutions, hours worked with lists of personnel and equipment used and other information necessary to document the progress and quality of construction.
- Monitoring, and ensuring project progresses according to the schedule, keeping the resident engineer aware of any schedule problems. We keep detailed daily diaries of activities, construction progress, hours worked, and equipment used with sufficient detail to permit review of contractor's cost similar to force account. Placed observed daily quantities are used for determining the monthly progress completed and for determining monthly progress payments. Dimensions measured and recorded are transferred to the as-built plans on a regular basis.
- Coordinating reviews, approvals, and tests as required by the plans and specifications, calling tests that are required to control the work.
- Interpreting plans and specifications, and when disputes occur, documenting the issues and arranging solutions.
- Rejecting work that does not meet quality and contract requirements.
- Stopping work and progress when safety concerns override basic contractual commitments, or when continuation will result in the inclusion of substandard work.
- Documenting construction activities with digital photographs and maintaining an organized photo log with the date and description of each photo taken.
- Maintaining a set of red-lined as-built plans and incorporating changes on the as-built plans as they occur.
- Assisting in the preparation of the monthly progress payment. Completing monthly quantity calculations to justify accurate payment for each pay item. Determining and recording quantities completed for contract change order work and labor and equipment hours for work completed on a force account basis.

- Conducting contractor employee interviews to ensure labor compliance, EEO, and DBE requirements are met by the contractor. Inspectors submit completed interview forms to the Resident Engineer who compares the reports with the contractor's submitted payrolls and the required prevailing wage rates.
- Responding to issues and concerns of local residents and the traveling public.
- Monitoring traffic control to ensure the contractor is complying with the Caltrans Traffic Manual and California Manual on Uniform Traffic Control Devices (MUTCD) requirements.

### ***Weekly Progress Meetings***

We will conduct weekly project coordination meetings with the contractor, engineer, city and state representatives and other interested parties to address safety issues, violations of contract procedures, actual and potential problems, and review the project schedule and work activities. We will prepare meeting minutes, facilitate the meeting, set the agenda, keep discussions focused and give all project participants an opportunity to update the team on construction issues within their jurisdiction.

### ***Scheduling***

We will review the contractor's initial baseline schedule to ensure that it is a reasonable, practical, and comprehensive plan for accomplishing the work. Each month, we will evaluate construction progress by reviewing of the contractor's updated schedule. We will examine the as-built status of completed and partially completed activities to ensure that the as-built portions of the schedule accurately represent the progress of work in the field. With respect to forecast work, we examine those portions of the schedule which have been altered from the initial baseline or previously approved update. We will work with the contractor to develop workable plans for schedule updates that do not conform to the schedule requirements of the technical provisions. If the contractor falls behind schedule we will assist in developing mitigation plans.

### ***Contract Change Orders***

We will implement a change order processing procedure that is acceptable to the City. We will prepare the contract change order and provide a memorandum explaining the details of each change and we will evaluate contract change orders for accuracy and reasonableness. In those instances, where we believe that the contractor's request is inaccurate or unreasonable, we will meet with the contractor to examine the area of disagreement and arrive at a negotiated agreement whenever possible.

We will negotiate change order requests with the contractor to ensure fair compensation for extra work and changed conditions. We evaluate contract change order requests, contractor's cost proposals and time extension requests for accuracy and reasonableness. In those instances where we believe that the contractor's request is inaccurate or unreasonable, we will meet with the contractor to examine the areas of disagreement and arrive at a negotiated agreement, whenever possible. We will prepare the documentation and obtain concurrence of the City with respect to change orders.

If extra work is required, we will negotiate costs for contract change orders with the contractor. Real-time cost estimates are essential to controlling project costs for change orders and claims. As the construction contract proceeds, we develop fair and accurate cost estimates to support change, claims, and back-charge negotiations. In addition to developing independent cost estimates, we also analyze contractor cost proposals.

If we are unable to negotiate reasonable costs for contract change orders, we will direct the contractor to perform extra work on a force account (time and material) basis. All

force account work will be monitored for proper use of equipment and personnel. At the end of each day, the contractor and inspector will complete a level of effort agreement to include labor hours, equipment hours and materials used. We also complete independent calculations for each extra work bill submitted by the contractor to identify errors and prepare a log of extra work paid for to prevent duplicate payments of extra work bills.

Issues may arise that have the potential for leading to claims. We minimize and avoid potential disputes by staying involved with the project and listening to the concerns of all project stakeholders. Our policy is to meet with the contractor and resolve issues without delay. We also recognize the importance of maintaining proper documentation pertaining to any dispute. If a dispute and or a claim becomes an issue, we will review the dispute or claim, determine additional analysis to be performed, and provides recommendations to the City.

#### ***Review of RFIs, Falsework Drawings and other Submittals***

Request for Information (RFIs), shop drawings and other submittals from the Contractor will be logged and monitored using our standard computer-based shop drawing control procedures. We status each submittal as it is received, accepted, returned, or rejected to assure that the party responsible for acting on any given submittal at any given time can be identified. The status and due date of pending shop drawings will always be known. The same procedures will be applied to control the RFI process. Any submittals or RFIs requiring Caltrans concurrence will be noted as such in the log and routed to Caltrans as appropriate for their review, comments, or acceptance.

#### ***Storm Water Pollution Prevention Plan (SWPPP)***

We will review and approve the contractor's SWPPP prior to the start of work to ensure compliance with current regulations and permits. Many of our team members have completed formal SWPPP training and training with AQMD on Rule 403 for fugitive dust control. All inspectors maintain a copy of the SWPPP to ensure the contractor complies with its requirements. We will monitor contractor's compliance with the SWPPP and notify him to take appropriate actions for any violations of the SWPPP. Every inspector plays an active role, including conducting weekly SWPPP inspections during the raining season, in ensuring compliance with the SWPPP.

#### ***Utility Coordination***

The project requires the relocation of several fire hydrants, potholing for numerous utilities and the protection in place or potential relocation of other utilities with various agencies to include the Costa Mesa Sanitary District, Mesa Consolidated Water District, Southern California Edison, SBC Telephone and COMCAST Communications. Close coordination with the utility Companies is required to avoid delays to the project. We have successfully coordinated with most of these utility companies for other infrastructure improvement projects in Orange County. We invite Utility Company representative to our weekly project coordination meetings and have conducted separate utility coordination meetings to review plans and schedules, resulting in timely relocation and/or installation of utility facilities.

#### ***Monthly Progress Payments***

Each month we will prepare progress payments for work completed by the contractor. Each progress payment is linked to the previous payment, and we verify that the Contractor only receives payment for pay items or change order extra work bills that he is entitled to. Inspectors will prepare quantity calculations for each project pay item and extra work performed. Likewise, we will review certified payrolls, DBE reports and EEO

records to ensure labor compliance. We also review progress reports, lien waivers, and inventories of materials on hand, quantity surveys, and monthly schedule updates. We also verify that retention and other applicable deductions are properly recorded on each progress pay estimate.

### **C. Quality Assurance**

Smith-Emery Laboratories, located in Anaheim California, will provide field and laboratory materials testing services. They have long history in the industry since their establishment in 1904. They are experienced with Caltrans standards and maintain all necessary certifications including certification by Caltrans of their lab located at 1195 North Tustin Avenue. They are currently providing similar services as a subconsultant to Jacobs for infrastructure improvement projects in the City of Cypress. We will coordinate material testing services with Smith-Emery's project manager, John Latiolait, PE.

Our team members are knowledgeable of the types and frequencies of material testing required for all construction items. Many of our field inspectors are also certified to perform several California Test Method sampling and testing procedures; such as making concrete cylinders and beams, taking aggregate and asphalt concrete samples, conducting concrete unit weight testing and conducting bridge profilograph. We will maintain material test results and ensure that re-test for failing tests are performed and properly documented.

### **D. Community Coordination**

The Newport Boulevard Improvement project will require careful coordination of all construction activities between the contractor and adjacent businesses to minimize any impacts to adjacent commercial and office centers. To accomplish this, we will serve as the primary point of contact and authority on all construction activities to the adjacent business community. We will compile a file that lists all businesses, identifying the business, contact name, phone number, and address that can be utilized during construction. We will coordinate with the contractor to provide safe and acceptable access throughout the project during business hours and monitor daily construction activities. A listing of all complaints will be maintained along with any discussion and any action taken to resolve the complaint. We will coordinate approval of temporary "No Parking" areas with the project manager and adjacent businesses and notify the project manager immediately of any significant issue.

### **E. Traffic Control and Safety**

We will review traffic management plans to ensure they meet contract requirements, provide sufficient notification to the public of closures and changes in traffic pattern are clearly marked and understandable to the traveling public, and are safe. The changing traffic patterns, construction detours, potential airborne dust, vibration and construction noise can be disruptive to residents and businesses in the area. Our field staff will be the first responders for addressing complaints from the public. We will work with the Contractor to address issues and concerns brought forth by the public and property owners

Prior to the start of construction we will review anticipated construction activities and develop a Hazardous Assessment Safety Action Plan (HASAP), a project specific plan that defines the necessary elements needed to accomplish field activities in a safe

environmental. We will also review the Contractor's safety plan and observe work activities for compliance with the approved plans or with City, State and OSHA Standards. Although the Contractor is responsible for implementing its safety plan, monitoring its work force, and correcting deviations; we will immediately notify the Contractor and the City of any observed deviations from the safety plan. As required, we will recommend the corrective actions needed. A discussion of safety will be a standing item at each weekly project coordination meetings. During construction each team member prepares Safe Plans of Actions (SPA's) for new tasks and Safety Observation Reports (SOR's) as needed to identify risks, unsafe behavior or conditions, and corrective actions to prevent recurrence.

## **F. Post-Construction Phase**

### ***Finalize Contract Payment***

Project closeout includes issuing notices of substantial completion, performing final inspections, assuring completion of punch list items, resolving disputes and claims submitted by the Contractor, monitoring Contractor demobilization, coordinating final acceptance of the work by the City and Caltrans, obtaining consent of surety, and administering final invoicing and retention release.

We will ensure proper project closeout and bring in inspectors to the site, as needed, to assist in any final inspections required following substantial completion. We prepare reports and certifications, as required, to ensure all project plans and specifications requirements have been met by the Contractor prior to final payment and release of retention. We will perform the following items to ensure successful project closeout.

### ***As-Built Plans***

With respect to record drawings, we review the as-built information received from the Contractor and incorporate appropriate information onto our as-built plans. Our redline as-built sets are provided to the designer of record for preparation of final as-built drawings.

### ***Punch List***

We will prepare initial punch list and consolidate comments into final punch lists. We will use a punch list document to identify problems and deficiencies in advance. This punch list report creates the opportunity to take care of issues in advance, prior to the project closeout stage. This process facilitates closeout efforts and assures that problems and deficiencies are resolved.

### ***Final Inspection***

We will assist the city, state and engineer with final inspection, acceptance and final payment. Caltrans will conduct a safety review of the project prior to accepting the project. We will make early contact with the Safety Review Committee to identify potential changes related to safety. Any change must be approved by the Design Engineer and incorporated in the as-built plans.

### ***Contract Documents***

We will finalize the bid items, claims, change orders, punchlist items and corrected shop drawings. Part of project close-out involves completing the project documentation, including contractor submittals of all required operations and maintenance manuals, spare parts lists, warranties and guarantees, lien waiver releases, certified payrolls, final report of utilization of DBEs, permit close-out documentation, required project performance certificates, and record drawings.

### ***Provide Original Set of Construction Documents to the City***

During construction we will maintain and file project documents in accordance with the Caltrans filing system and the Construction Manual. These documents will be bound in Ecco folders and placed in book sized storage boxes and delivered to the City.

### **G. Federal Contract Management Requirements**

We will monitor the contractor's EEO/Labor Compliance during construction and will review certified payrolls to ensure that employees are paid the prevailing wage rate or more and maintain copies of the certified payrolls in the project records. Our field inspector will conduct random and periodic EEO/Labor Compliance Interviews; these will be reviewed and completed by the Resident Engineer. Issues related with EEO/labor Compliance will be promptly addressed with the Contractor. We will notify the city of unresolved issues and provide recommended courses of actions to take.

#### ***Federal Final Reports***

We will assist the City in preparing the final reports needed for reimbursement of federal funds and for project acceptance as outlined in the Caltrans Local Procedures Manual. We recently assisted the Cities of Ontario, Oceanside and Seal Beach with completing documentation for final invoicing and reimbursement of Federal Funds. This required completing the Report of Expenditures Checklist, which includes final inspection, final invoice, final detailed estimate, change order Summary, Final Report of utilization of DBE, material certification, report of completion of structure and other required reports.

### **H. Miscellaneous Equipment, Vehicles and Tools**

Each of our inspectors is equipped with a vehicle (truck); OSHA certified amber flashing light; fire extinguisher; spare tire; lockable tool box; cellular phone; digital camera; and all other personal protection equipment needed for the work involved. Our subconsultant, Smith-Emery Laboratories, will provide Caltrans certified nuclear gauges for compaction testing along with the certified personnel to operate the equipment.

**EXHIBIT D**

**DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

**Local Agency Proposer/Bidder-DBE (Consultant Contract) Information**

**Local Agency Proposer/Bidder-DBE (Consultant Contracts)-Information**

This information shall be provided by the successful Proposer/Bidder with the award document.

- Preliminary Engr.    Studies    Environmental Document    Prelim Design
- Final Design Right of Way    Right of Way Engineering    Right of Way Utility Relocation

Construction    Construction Engineering    Construction Management

AGENCY: \_\_\_\_\_ LOCATION: \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

CONTRACT NUMBER: \_\_\_\_\_

FEDERAL-AID PROJECT NUMBER: \_\_\_\_\_

TOTAL CONTRACT AMOUNT: \$ \_\_\_\_\_

FEDERAL SHARE (For local agency to complete): \$ \_\_\_\_\_

PROPOSAL/BID DATE: \_\_\_\_\_

PROPOSER'S/BIDDER'S NAME: \_\_\_\_\_

CONTRACT ITEM NO.	ITEM OF WORK AND DESCRIPTION OR SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED <sup>2</sup>	DBE Cert. No. AND EXPIRATION DATE	NAME OF DBEs <sup>1</sup> (Must be certified on the date bids are opened - include DBE address and phone number)	DOLLAR AMOUNT DBE
<b>IMPORTANT:</b> Identify all DBE firms being claimed for credit, regardless of tier. Copies of the DBE quotes are helpful. Names of the First-Tier DBE Subcontractors and their respective item(s) of work listed above shall be consistent with the names and items of work in the "List of Subcontractors" submitted with your bid pursuant to the Subcontractors Listing Law and the Special Provisions.			Total Claimed Participation	\$ _____  %
1. Enter DBE prime and subcontractors certification number. Prime contractors shall indicate all work to be performed by DBEs including work performed by its own DBE forces.			Signature of Proposer/Bidder _____	
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished by DBE.			Date _____ (Area Code) Tel. No. _____	
_____			Person to Contact _____ (Please Type or Print)	

CT Bidder - DBE Information (Rev 4/28/06)

Distribution: (1) Copy - Fax immediately to the Caltrans District Local Assistance Engineer (DLAE) upon award.  
 (2) Copy - Include in award package to Caltrans District Local Assistance  
 (3) Original - Local Agency files

**EXHIBIT E**

**DISCLOSURE OF LOBBYING ACTIVITIES**

Disclosure of Lobbying Activities

DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change  <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known  Congressional District, if known	<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>	
<b>10. a. Name and Address of Lobby Entity</b> (If individual, last name, first name, MI)	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI)	
(attach Continuation Sheet(s) if necessary)		
<b>11. Amount of Payment (check all that apply)</b> \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<b>13. Type of Payment (check all that apply)</b> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
<b>12. Form of Payment (check all that apply):</b> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____		
<b>14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:</b>  (attach Continuation Sheet(s) if necessary)		
<b>15. Continuation Sheet(s) attached:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>		
<b>16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>	Authorized for Local Reproduction Standard Form - LLL	

**EXHIBIT F**  
**CITY COUNCIL POLICY 100-5**

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

## **CHAPTER 10 BACKGROUND**

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Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

## **CHAPTER 11 PURPOSE**

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It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

## ***POLICY***

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

<b>SUBJECT</b>	<b>POLICY NUMBER</b>	<b>EFFECTIVE DATE</b>	<b>PAGE</b>
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

b. Establishing a Drug-Free Awareness Program to inform employees about:

1. The dangers of drug abuse in the workplace;
2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
3. Any available drug counseling, rehabilitation and employee assistance programs; and
4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;

d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:

1. Abide by the terms of the statement; and
2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;

f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to and including termination; or
2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.

2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:

a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;

b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;

c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.

3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

**EXHIBIT G**  
**CERTIFICATION OF LOCAL AGENCY**

Exhibit 0-G Certification of Local Agency

**CERTIFICATION OF LOCAL AGENCY**

I HEREBY CERTIFY that I am the Newport Boulevard Improvement Project, Project Manager of the City of Costa Mesa, and that the consulting firm of Jacobs, or its representative has not been required (except as herein expressly stated), directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- (a) employ, retain, agree to employ or retain, any firm or person, or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation, or consideration of any kind.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this Agreement involving participation of federal-aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

12/18/08  
(Date)

David Lopez  
(Signature)

**EXHIBIT H**  
**CERTIFICATION OF CONSULTANT**

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Certification of Consultant, Commissions & Fees

**CERTIFICATION OF CONSULTANT**

I HEREBY CERTIFY that I am the \_\_\_\_\_, and duly authorized representative of the firm of \_\_\_\_\_, whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable state and federal laws, both criminal and civil.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

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**EXHIBIT I**  
**CERTIFICATES OF INSURANCE**

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/22/08

PRODUCER LIC #0437153 1-212-948-1306  
Marsh Risk & Insurance Services  
Contract.ReviewCSS@marsh.com  
777 S. Figueroa Street

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.**

Los Angeles, CA 90017-5822  
Fax to: 1-212-948-1306

**INSURERS AFFORDING COVERAGE**

NAIC #

INSURED  
Jacobs Field Services North America, Inc.

INSURER A: ACE American Insurance Company

INSURER B:

INSURER C:

INSURER D:

INSURER E:

1111 South Arroyo Parkway  
P.O. Box 7084  
Pasadena, CA 91109-7084

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	BDO G23741374	07/01/08	07/01/09	EACH OCCURRENCE	\$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$250,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$
	<input checked="" type="checkbox"/> CONTRACTUAL LIABILITY				PERSONAL & ADV INJURY	\$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	\$1,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PRODUCTS - COM/POP AGG	\$1,000,000
A	AUTOMOBILE LIABILITY	ISA H0824411A	07/01/08	07/01/09	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS					
	<input type="checkbox"/> NON-OWNED AUTOS					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY: EAACC	\$
					AGG	\$
	EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input type="checkbox"/> RETENTION \$					\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WLR C44478432 (AOS)	07/01/08	07/01/09	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
A	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?	SCF C44478353 (ME, WI)	07/01/08	07/01/09	E.L. EACH ACCIDENT	\$1,000,000
A	If yes, describe under SPECIAL PROVISIONS below	WCU C44478316 (LA, OH, TX)*	07/01/08	07/01/09	E.L. DISEASE - EA EMPLOYEE	\$1,000,000
					E.L. DISEASE - POLICY LIMIT	\$1,000,000
A	OTHER PROFESSIONAL LIABILITY "CLAIMS MADE"	BON G21655065 003	07/01/08	07/01/09	PER CLAIM/PER AGGREGATE	1,000,000
					DEFENSE INCLUDED	

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**

Office Location: Cypress, CA; Project Mgr: Karim Varshochi ; Sr. Contract Mgr: Sandra Holmes; Sector: Public  
Re: Construction Management and Inspection Services for the Newport Boulevard Improvement Project;  
\*\$2,000,000 SIR FOR STATES OF: LA, OH, TX. The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are added as an additional insured for general liability & auto liability as respects the negligence of the insured in the performance of insured's services to cert holder under contract for captioned work.  
\*This is a sample certificate only\*. The actual certificate for the proposed project will comply with the terms and conditions negotiated in the final contract, consistent with policy terms and conditions.

**CERTIFICATE HOLDER**

**CANCELLATION**

1-165595492  
CITY OF COSTA MESA, A MUNICIPAL CORPORATION  
ATTN: DAVID SORGE  
77 FAIR DRIVE  
PO BOX 1200  
COSTA MESA, CA 92628  
USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*Chas M. Brown*

## **IMPORTANT**

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

# SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE  
12/22/08

NAME OF INSURED: Jacobs Field Services North America, Inc.

Coverage is primary and certificate holder's insurance is excess and non-contributory.

