

FUNDING AGREEMENT BETWEEN
CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO
COUNTY AND
SAN MATEO COUNTY SUPERINTENDENT OF SCHOOLS
FOR SAFE ROUTES TO SCHOOL PROGRAM

This Agreement entered into this 1st day of July, 2025, by and between the City/County Association of Governments of San Mateo County, a Joint Powers Agency, hereinafter called “LOCAL AGENCY” or “C/CAG,” and the San Mateo County Superintendent of Schools (County Office of Education), hereinafter called “CONSULTANT” or “Superintendent.” These entities are referred to individually as “Party” and collectively as “Parties.”

W I T N E S S E T H

WHEREAS, C/CAG is a joint powers agency formed for the purpose of preparing, adopting, and monitoring a variety of County-wide state-mandated plans; and

WHEREAS, C/CAG is prepared to award funding for the support of the San Mateo County Safe Routes to School Program (“Program”); and

WHEREAS, the Superintendent provides leadership and support to public schools in San Mateo County through its two Divisions: Educational Services and Business Services; and

WHEREAS, the overall goal of the Program is to enable and encourage children to walk or bicycle to schools by implementing projects and activities to improve health and safety, as well as to reduce traffic congestion due to school-related travels; and

WHEREAS, C/CAG has determined that the Superintendent will serve as the Local Educational Agency (LEA) to implement the Program; and

WHEREAS, C/CAG and the Superintendent desire to enter into an agreement to specify the work scope for the Program for FY 2025-2026 in the amount of \$798,223 and agree that C/CAG shall provide funds for the Program.

NOW, THEREFORE, IT IS HEREBY AGREED by the Parties as follows:

ARTICLE I INTRODUCTION

C/CAG is a joint powers agency designated by the Metropolitan Transportation Commission (MTC) as the Congestion Management Agency (CMA) for San Mateo County. C/CAG, acting as the CMA, is responsible for project selection, programming and overall delivery of federal aid funds received by the County. C/CAG has determined that consultant

services are needed to implement and manage the San Mateo County Safe Routes to School Program, a CMA designated responsibility.

The name of the “CONSULTANT” is:

San Mateo County Superintendent of Schools (County Office of Education)
The Program Coordinator for the “CONSULTANT” will be Theresa Vallez-Kelly

The name of the “LOCAL AGENCY” is:

City/County Association of Governments of San Mateo County (C/CAG)
The Contract Administrator for LOCAL AGENCY will be Eva Gaye

- A. LOCAL AGENCY received \$2,120,000 of Surface Transportation Program (STP) funding from the Federal Highway Administration (FHA) through the Metropolitan Transportation Commission One Bay Area Grant Cycle 3 Program and \$274,669 of local Measure M funding to administer the Safe Routes to School Program (**Federal Project No. STPLNI 6419-034**) for a period of four years (fiscal years 2022-23 through 2025-26).
- B. CONSULTANT shall be awarded a portion of the federal Surface Transportation Program funds and Measure M funds on an annual basis. For FY 2025-2026, CONSULTANT is awarded **\$798,223**. The breakdown of funds includes **\$706,666.82 of STP** funds and **\$91,556.18 of Measure M** funds.
- C. A portion of the funds included are federal funds, and the recipient is responsible for compliance with all relevant federal requirements, including, but not limited to 2 CFR § 200.501 “Audit requirements” and 2 CFR § 200.332 “Requirements for pass-through entities.”
- D. The work to be performed under this AGREEMENT is described in Article III Statement of Work and the approved CONSULTANT’s Cost Proposal dated (April 28, 2025). The approved CONSULTANT’s Cost Proposal is attached hereto (Attachment #2) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- E. CONSULTANT agrees to indemnify and hold harmless LOCAL AGENCY, its officers, agents, and employees from any and all claims, demands, costs, or liability arising from or connected with the services provided hereunder due to negligent acts, errors, or omissions of CONSULTANT. CONSULTANT will reimburse LOCAL AGENCY for any expenditure, including reasonable attorney fees, incurred by LOCAL AGENCY in defending against claims ultimately determined to be due to negligent acts, errors, or omissions of CONSULTANT, its officers, agents, employees, or subconsultants.
- F. CONSULTANT and the agents, employees, and subconsultants of CONSULTANT, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY.

- G. Any third-party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against CONSULTANT based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.
- H. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- I. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

- A. CONSULTANT shall submit progress reports on a quarterly basis. The report will be sufficiently detailed for the LOCAL AGENCY's Contract Administrator to determine if CONSULTANT is performing to expectations or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Program Coordinator shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the project(s).

ARTICLE III STATEMENT OF WORK

- A. CONSULTANT shall perform the broad range of project coordination services which are included in Attachment 1 entitled "Scope of Work."

ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT shall go into effect on **July 1, 2025**, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on **June 30, 2026**, unless extended by an amendment to the AGREEMENT.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. Payment under this AGREEMENT shall be made quarterly, based on the percentage of work completed by the CONSULTANT. No additional compensation shall be provided to CONSULTANT unless there is a negotiated and approved change in the scope of work or project by CONSULTANT and LOCAL AGENCY. Any adjustment in compensation shall require authorization through an amendment to the AGREEMENT approved by LOCAL AGENCY. In the event that CONSULTANT fails to submit the required deliverable items as per the schedule outlined in Article III Statement of Work, LOCAL AGENCY reserves the right to delay payment or terminate this AGREEMENT in accordance with the provisions set forth in Article VI Termination.
- B. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval, or for any work performed prior to approval of this AGREEMENT.
- C. CONSULTANT will be reimbursed within thirty (30) days of receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed for the quarter. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. The final invoice must be submitted within sixty (60) calendar days after completion of CONSULTANT's work unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed or emailed to LOCAL AGENCY's Contract Administrator at the following address:

City/County Association of Governments of San Mateo County
Eva Gaye
555 County Center, 5TH Fl.
Redwood City, CA 94536
egaye@smcgov.org

- D. The total amount payable by LOCAL AGENCY shall not exceed **\$798,223 (Seven Hundred Ninety-eight Thousand Two Hundred and Twenty-three Dollars)**.

ARTICLE VI TERMINATION

LOCAL AGENCY may terminate this Agreement at any time for any reason by providing 30 calendar days' written notice to CONSULTANT. Termination will be effective on the date specified in the notice. In the event of termination under this paragraph, CONSULTANT shall be paid for all services provided to the date of termination, subject to availability of funding. Such payment shall be that prorated portion of the full payment

determined by comparing the work actually completed to the work required by the Agreement.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

ARTICLE VIII RETENTION OF RECORD/AUDITS

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

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by Agreement, shall be reviewed by LOCAL AGENCY.

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

ARTICLE X SUBCONTRACTING

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

- D. CONSULTANT shall pay its subconsultants within fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.
- E. Any substitution of subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute subconsultant.

ARTICLE XI EQUIPMENT PURCHASE

- A. Prior authorization, in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or consultant services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. Any equipment purchased as a result of this Agreement is subject to the following:
"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, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

ARTICLE XII CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further

agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.

- C. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIII REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

CONSULTANT warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right in its discretion; to terminate the Agreement 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 XIV PROHIBITION OF EXPENDING LOCAL AGENCY 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 LOCAL AGENCY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
 - 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier sub agreements, which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XV NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
- C. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- D. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code § 12990 et seq.), the applicable regulations promulgated there under (2 CCR § 11000 et seq.), the provisions of Gov. Code §§ 11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code § 12990 (a-f), set forth 2 CCR §§ 8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

- E. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- F. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- G. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- H. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- I. The CONSULTANT shall comply with regulations relative to non-discrimination in federally assisted programs of the U.S. Department of Transportation (49 CFR 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR § 21.5, including employment practices and the selection and retention of subconsultants.
- J. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVI DEBARMENT AND SUSPENSION CERTIFICATION

- A. CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any

person associated therewith in the capacity of owner, partner, director, officer or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency.
 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years.
 3. Does not have a proposed debarment pending; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government excluded parties (<https://sam.gov/content/home>) maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this AGREEMENT is **21%**. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10- O2: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: Proposer/Contractor Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance Under 49 CFR 26.13(b):

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

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments.
- (2) Assessing sanctions.
- (3) Liquidated damages; and/or
- (4) Disqualifying CONSULTANT from future proposing as non-responsible

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

ARTICLE XVIII FUNDING REQUIREMENTS

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

ARTICLE XIX CHANGE IN TERMS

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY's Contract Administrator.

ARTICLE XX CONTINGENT FEE CONSULTANT

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

ARTICLE XXI DISPUTES

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

ARTICLE XXII INSPECTION OF WORK CONSULTANT

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and

inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXIII OWNERSHIP OF DATA

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

ARTICLE XXIV NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXV NOTIFICATION

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

CONSULTANT:

San Mateo County Superintendent of Schools
Theresa Vallez-Kelly, Program Coordinator
101 Twin Dolphin Drive
Redwood City, CA 94065-1064

LOCAL AGENCY:

City/County Association of Governments of San Mateo
County
Eva Gaye, Contract Administrator
555 County Center, 5th Floor.
Redwood City, CA 94063

ARTICLE XXVI COMPLIANCE WITH STATE AND FEDERAL LAWS

CONSULTANT shall comply with applicable State of California and Federal laws, including but not limited to, the Caltrans Consultant Procurement Manual, Chapter 10 Non-A&E Consultants (attached hereto), including the following:

- A. CONSULTANT must use their own document procurement procedures which reflect applicable state, local, and tribal laws and regulations, provided that the procurements conform to applicable federal laws and regulations (2 CFR Part 200- Uniform Administrative Requirements, Cost Principles, and Audit Requirement, and Audit Requirements for Federal Awards)
- B. CONSULTANT shall procure all projects by competitive proposals in a manner providing full and open competition consistent with federal and state standards (California State Public Contract Code Sections 10335-10381).
 1. Requests for proposals must be publicized and all evaluation factors and their relative importance identified.
 2. Proposals must be solicited from an adequate number of qualified sources (no less than three)
 3. CONSULTANT must have a written procedure for evaluating proposals.

4. Consultants other than A&E consultants may be selected using cost or cost and qualifications (best value)
5. Contract audit and review process described in Section 4.0 of the Caltrans Consultant Procurement Manual (attached hereto) is optional for non-A&E contracts.
6. Public agencies contracting with other public agencies to perform work needed an executed Memorandum of Understanding (MOU) or interagency agreement.
7. A consultant firm that was instrumental or listed in the application process for projects, such as ATP, is not entitled to be awarded a contract for its implementation without a competitive procurement. All federal/state funded contracts must be competitively solicited.

C. Preparing Request for Proposals

1. RFP for professional services shall include minimum qualification requirements, solicitation and award time frames, term of agreement, scope of work, evaluation criteria and process, and technical proposal and performance specifications.
2. CONSULTANT shall attach complete scopes of work outlining local agency and consultant responsibilities and all special provisions for the work/services needed and have all funded approved. LOCAL AGENCY contacts, or the Contract Administrator should be identified in the RFP.
3. CONSULTANT shall comply with Section 9.8 Technical Proposal, 9.9 Cost Proposal, 9.10 DBE Consideration, 9.11 Solicitation and Award of Contracts, 9.12 Evaluation Criteria, 9.13 Oral Presentational, 9.14 Debriefing.

D. Scope of Work

CONSULTANT shall prepare clear and concise scopes of work. SOWs must be detailed and specific and be organized in a logical manner. Sort work details by similar actions or requirements. Clearly define roles and responsibilities of consultant and local agency. CONSULTANT should write SOWs to indicate what qualifications are required to perform the work and to express when, where, and how the work/service is to be performed.

E. Technical Proposal

The Technical proposal should include the following information:

1. Consultant Project Manager – qualifications, roles and responsibilities
2. Methodology - description of work and overall approach, specific techniques that will be used and specific administrative and operations expertise to be used.
3. Workplan and Work Schedule - the technical proposal should include activities and tasks, and their delivery schedule.

4. Personnel - List of personnel who will be working on the project, and their resumes.
5. Facilities and resources (If applicable) - Explanation of where the services will be provided and what type of equipment is needed to perform services. Page 62 of 69 Consultant Procurement Manual April 2017
6. Sub-contracts - Identify all sub-contracts that are to be used, description of each and the work by each sub-consultant/sub-contractor. No work shall be subcontracted unless listed in the technical proposal. Sub-consultant resumes should be provided.
7. References - The technical proposal should provide at least three (3) clients for whom the proposer has performed work of similar nature to the request.

F. Cost Proposal Worksheet

The RFP should provide a standard format for cost proposal that all proposers must include in their technical proposal. The cost proposal format can be broken down by specific tasks, showing hourly labor rates, level of effort and material, and/or by milestones and deliverables.

G. DBE Consideration

DBE consideration is required on all federal aid funded contracts including non-A&E. Zero DBE goals must be approved by Caltrans Division of Local Assistance Engineering prior to contract execution.

H. Solicitation and Award of Contracts

1. Advertisement for RFPs may be through the CONSULTANT website, local publications, and national publications. Minimum solicitation time is 14 calendar days.
2. The solicitation should inform potential bidders that questions must be submitted in writing to the CONSULTANT Program Coordinator/Administrator by a specified date and time. All pertinent technical information and answers to bidder's questions shall be provided to all potential bidders. Written responses to all questions will be collectively compiled and provided as an addendum.
3. Contracts may be modified or amended only if the contracts so provide. Amendments must be requested and executed prior to the termination date of the most recently approved original or amended contract. All records of contract activities shall be kept for three years after federal final voucher E-76 or state final voucher for State-Only funds.
4. Costs are reimbursable after state allocation by the California Transportation Commission (CTC) and/or the issuance of the federal E-76. The per diem rate shall not exceed the state rate. Contract Managers are responsible for monitoring expenditures on all contracts and verifying categories of work that require prevailing wage. A person in Responsible Charge of contract management is required for all federally funded projects.

I. Evaluation Criteria

1. Review all eligible proposals (i.e., those filed on time and in the manner prescribed) to determine which ones meet the format requirements and the standards specified in the RFP. Proposals meeting the minimum standards and format requirements can then be rated or scored. Those proposals shall be submitted to an agency evaluation committee. The evaluation committee will evaluate and score proposals using the methods specified in the RFP. The contract must be awarded to the responsible proposer whose proposal is given the highest score by an evaluation committee.
2. The Contract Administrator must verify that each proposal contains all of the forms and other information required by the RFP. If all required information is not provided, a proposal may be considered nonresponsive and rejected without evaluation. Proposals without information regarding, or not meeting, the required DBE utilization goal or without a Good Faith Effort documentation, late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers, or box tops are recommended.
3. Note that all criteria to be used to evaluate the technical proposals must have a logical foundation within the scope of work or within other technical requirements contained in the RFP. Each criterion must have a weight or level of importance, and it is recommended that total possible score for the evaluation criteria be one hundred (100) points. The proposed cost should be at least thirty percent (30%) of total points in evaluation criteria.
4. To establish effective competition, a minimum of three proposals must be evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. If only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) (LAPM Exhibit 12-F) must be documented. In either case, the re-advertisement of the RFP should be considered as an option.
5. The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed, and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

J. Oral Presentations

1. Oral presentations are optional. The evaluation criteria must include factors/sub-factors and weights used to score the proposers performance at the oral presentation. The evaluation committee will only be able to score each proposer based upon this criterion.
2. The Contract Manager/Administrator should develop a set of questions related to the scope of work or the project to be asked during the evaluation committee question and answer (Q & A) section of the oral presentations. All proposers are asked the same questions for consistency.

K. Debriefing

The committee chairperson or designee will complete a final evaluation criteria scoresheet that will become part of the contract file. It can later be used during debriefing of unsuccessful proposer(s) to point out deficiencies and weaknesses for each criterion.

L. Protests/Appeals/Reinstatement Procedures

Both state and federal regulations require well-defined protest/reinstatement procedures. It is essential that the procedures include a reasonable opportunity for the prospective consultant to present his/her case. The appeals procedures strengthen the process by which the contracting agency reaches its ultimate goal and helps defend its action against a claim of lack of due process. A termination clause and a provision for settlement of contract disputes are required. Protest procedures and dispute resolution processes should be in accordance with 2 CFR 200.318(k).

ARTICLE XVII SIGNATURES

IN WITNESS WHEREOF, the parties hereto have affixed their hands on the day and year first above written.

City/County Association of Governments of San Mateo County (C/CAG)

Adam Rak

Chair, C/CAG Board of Directors

Date:

Melissa Andrikopoulos

C/CAG Legal Counsel

Date:

San Mateo County Office of Education

Nancy Magee

County Superintendent of Schools

Date

County Superintendent of Schools

Legal Counsel

Date