

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.27  
(ID # 23695)

**MEETING DATE:**  
Tuesday, February 06, 2024

**FROM :** TLMA-TRANSPORTATION:

**SUBJECT:** TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:  
Approval of the Consulting Services Agreement between the County of Riverside and KOA Corporation for the Desert Edge Mobility Plan. District 4. [\$249,999 Total Cost - ATP State Funds 100%]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the Consulting Services Agreement between the County of Riverside and KOA Corporation for the Desert Edge Mobility Plan in the amount of \$249,999 for FY 23/24-24/25.
2. Authorize the Chairman of the Board to execute the same.

**ACTION:**Policy

Patricia Romo, Director of Transportation 2/1/2024

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Perez, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez  
Nays: None  
Absent: None  
Date: February 6, 2024  
xc: Trans.

Kimberly A. Rector  
Clerk of the Board  
By: Naomy Li  
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 75,000	\$ 174,999	\$ 249,999	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> Active Transportation Program (ATP) State Funds (100%). There are no General Funds used in this project.			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 23/24-24/25	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The Transportation Department applied for and received an Active Transportation Program (ATP) Cycle 6 grant in 2022 in the amount of \$300,000 for the preparation of the Desert Edge Mobility Plan, within the Desert Edge community of Riverside County. The Transportation Department has selected to retain the services of an outside Engineering Consulting Firm to prepare the Desert Edge Mobility Plan.

In compliance with the California Department of Transportation (Caltrans) Local Assistance Procedures Manual, the Transportation Department issued a Request for Proposals on September 26, 2023 for qualified Engineering Consulting Firms to submit proposals for the proposed Desert Edge Mobility Plan. Five (5) Engineering Consulting Firms submitted proposals by the October 31, 2023 submittal deadline. All five (5) received proposals were evaluated by a three-person panel consisting of representatives from the Transportation Department.

KOA Corporation was selected as the top ranked Engineering Consulting Firm based on their submitted proposal. KOA Corporation will be tasked to prepare the Desert Edge Mobility Plan as outlined in their Scope of Work for a not-to-exceed fee of \$249,999.35. The contract and rates for the desired services were developed through negotiations with KOA Corporation and the Transportation Department. The consultant selection process meets the requirements for state funded projects.

The scope and negotiated fee for completing the desired engineering services are provided in detail in Attachments "A", "B", and "C" of the subject agreement. A not-to-exceed budget \$249,999.35 was negotiated with KOA Corporation to perform the desired services.

Project No. D3-0114.

**Impact on Residents and Businesses**

Desert Edge area residents and motorists will benefit from having a comprehensive Mobility Plan that will evaluate existing roadway conditions and identify short-term and long-term mobility

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solutions (including funding opportunities) that will enhance safety and access for all modes of transportation.

**Additional Fiscal Information**

The consultant's proposed fee for the Scope of Work is \$249,999.35. This project will be 100% funded by the ATP State grant funding.

**Contract History and Price Reasonableness**

The Transportation Department has negotiated billing rates with KOA Corporation, and they are within range of acceptable industry practice for engineering services.

**ATTACHMENTS:**

Agreement



Jason Farin, Principal Management Analyst 2/1/2024



Aaron Gettis, Deputy County Counsel 1/31/2024

Contract No.: 24-01-021  
Termination Date: 07/01/2025  
Amount \$249,999.35  
Authorized: [No]  
Federal Funding: [Yes]

## CONSULTING SERVICES AGREEMENT

for

The Desert Edge Mobility Plan  
Project # D30114 (ATPPL-5956(290))

between

County of Riverside • Transportation Department

and

KOA CORPORATION



FEB 06 2024

3.27

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**ATTACHMENTS** [In the event that the terms in any of the Attachments conflicts with the terms as provided in the Agreement, the terms of the Agreement shall prevail.]

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1 **ARTICLE I INTRODUCTION**

2 A. This Consulting Services Agreement (hereinafter referred to as "Agreement") is entered into this \_\_\_\_\_ day  
3 of \_\_\_\_\_, 2024, by and between the COUNTY OF RIVERSIDE, a political subdivision of the  
4 State of California, (hereinafter referred to as "COUNTY") and KOA CORPORATION, a California corporation,  
5 (hereinafter referred to as "CONSULTANT").

6 B. Coordination of CONSULTANT and COUNTY activities shall be accomplished through a CONSULTANT  
7 Project Manager and a COUNTY Contract Administrator.

8 The CONSULTANT Project Manager shall be:

9 Frank Barrera

10 Located at:

11 333 S. Anita Drive, Suite 800, Orange, CA 92868

12 The COUNTY Contract Administrator shall be:

13 Dennis Acuna

14 Located at:

15 3525 14<sup>th</sup> Street, Riverside, CA 92501

16 C. CONSULTANT shall perform:

17 The covenants set forth in Article III entitled Statement of Work.

18 In accordance with the time frames set forth in Article IV entitled Performance Period.

19 For the fees set forth in Article V entitled Allowable Costs and Payments.

20 D. CONSULTANT in the performance of this Agreement, shall act in an independent capacity. It is understood  
21 and agreed that CONSULTANT (including CONSULTANT's employees) is an independent contractor and  
22 that no relationship of employer-employee exists between the parties hereto. CONSULTANT's assigned  
23 personnel shall not be entitled to any benefits payable to employees of COUNTY.

24 E. COUNTY is not required to make any deductions or withholdings from the compensation payable to  
25 CONSULTANT under the provisions of the Agreement, and is not required to issue W-2 Forms for income  
26 and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the  
27 performance of its obligations hereunder, is only subject to the control or direction of the COUNTY as to the  
28 designation of tasks to be performed and the results to be accomplished.

- 1 F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction,  
2 supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds COUNTY harmless  
3 from any and all claims that may be made against COUNTY based upon any contention by any third party  
4 that an employer-employee relationship exists by reason of this Agreement.
- 5 G. Without the written consent of COUNTY, this Agreement is not assignable or transferable by CONSULTANT  
6 either in whole or in part. Except as expressly authorized herein, CONSULTANT shall not subcontract any  
7 work, without the prior written approval of the COUNTY.
- 8 H. CONSULTANT shall be as fully responsible to the COUNTY for the acts and omissions of its contractors and  
9 subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same  
10 manner as persons directly employed by CONSULTANT.
- 11 I. No alteration or variation of the terms of this Agreement shall be valid, unless made in writing and signed by  
12 the authorized representatives of both parties; and no oral understanding or agreement not incorporated  
13 herein, shall be binding on any of the parties hereto.
- 14 J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of  
15 CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless  
16 otherwise expressly so provided. COUNTY is designated as the lead agency for PROJECT and is working  
17 cooperatively with other agencies in the effort to complete the PROJECTL. Other public agencies that may  
18 be involved with the PROJECT including, but not limited to cooperative, funding, reviewing, regulatory or  
19 operating agencies are listed below and will hereinafter be collectively referred to as the "AGENCIES"

20 [Caltrans](#)

21 [County of Riverside Departments](#)

22 [Utility Companies](#)

23 **ARTICLE II CONSULTANT'S REPORTS OR MEETINGS**

- 24 A. To ensure understanding and performance of the Agreement objectives, meetings between COUNTY,  
25 AGENCIES, and CONSULTANT shall be held as often as deemed necessary (typically at least monthly). All  
26 work objectives, CONSULTANT's work schedule, the terms of the Agreement and any other related issues  
27 will be discussed and/or resolved. CONSULTANT shall keep minutes of meetings and distribute copies of  
28 minutes as appropriate. Progress reporting shall conform with the contract administration requirements of the



1 COUNTY's Consulting Services Manual including providing updated copies of the following documents at  
2 each PROJECT coordination meeting:

- 3 • Meeting Agendas
- 4 • Meeting Sign-in Sheets
- 5 • Meeting Minutes (Prior Meeting)
- 6 • Action Items Tracking List
- 7 • Deliverables Tracking List
- 8 • Schedule Summary

9 B. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed  
10 for the COUNTY Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on  
11 schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special  
12 problems encountered, so remedies can be developed.

13 C. CONSULTANT Project Manager shall meet with COUNTY Contract Administrator, as needed, to discuss  
14 progress on the Agreement.

15 **ARTICLE III STATEMENT OF WORK**

16 CONSULTANT shall furnish all technical and professional services including labor, material, equipment,  
17 transportation, supervision, and expertise to fully and adequately perform and complete the covenants set forth in  
18 Attachment A, Scope of Services, which is attached hereto and incorporated herein by reference.

19 **ARTICLE IV PERFORMANCE PERIOD**

20 A. This Agreement shall go into effect upon the [execution of this Agreement by both parties](#), and CONSULTANT  
21 shall commence work after written notification to proceed by COUNTY Contract Administrator. The  
22 Agreement shall end on [July 1, 2025](#), unless extended by a written amendment signed by the authorized  
23 representatives of both parties.

24 B. CONSULTANT is advised that any recommendation for Agreement award is not binding on COUNTY until the  
25 Agreement is fully executed and approved by COUNTY.

26 C. Services provided under this Agreement may be performed in separate Milestones or Phases. The  
27 sequencing and scheduling of these Milestones or Phases is set forth in Attachment B, Schedule of Services,  
28 which is attached hereto and incorporated herein by reference. Each Milestone or Phase shall be contingent

1 upon a written notification to proceed by COUNTY Contract Administrator.

2 **ARTICLE V ALLOWABLE COSTS AND PAYMENTS**

3 A. The method of payment for this Agreement will be based on actual cost plus a fixed fee. COUNTY will  
4 reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental  
5 costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work.  
6 CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee  
7 benefits, travel, equipment rental, overhead, and other estimated costs set forth in Article CVI, Cost Proposal,  
8 of Attachment C, Compensation Plan, which is attached hereto and incorporated herein by reference, unless  
9 additional reimbursement is provided for by a written amendment signed by the authorized representatives of  
10 both parties. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds  
11 COUNTY's approved overhead rate set forth in the Cost Proposal. In the event, that COUNTY determines  
12 that a change to the work from that specified in the Cost Proposal and Agreement is required, the Agreement  
13 time or actual costs reimbursable by COUNTY shall be adjusted by a written amendment signed by the  
14 authorized representatives of both parties to accommodate the changed work. The maximum total cost as  
15 specified in paragraph H of this Article shall not be exceeded, unless authorized by a written amendment  
16 signed by the authorized representatives of both parties.

17 B. In addition to the allowable incurred costs, COUNTY will pay CONSULTANT a fixed fee of \$20,033.13. The  
18 fixed fee is nonadjustable for the term of the Agreement, except in the event of a significant change in the  
19 scope of work and such adjustment is made by a written amendment signed by the authorized  
20 representatives of both parties.

21 C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved  
22 Cost Proposal.

23 D. When milestone or phase cost estimates are included in the approved Cost Proposal, CONSULTANT shall  
24 obtain prior written approval for a revised milestone or phase cost estimate from the COUNTY Contract  
25 Administrator before exceeding such cost estimate.

26 E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs.  
27 A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If  
28 CONSULTANT fails to submit the required deliverable items according to the schedule set forth in this

1 Agreement, COUNTY shall have the right to delay payment or terminate this Agreement.

2 F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this  
3 Agreement.

4 G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by COUNTY  
5 Contract Administrator of itemized invoices. Invoices shall be submitted no later than thirty (30) calendar  
6 days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work  
7 performed on each milestone or phase and each project as applicable. Invoices shall follow the format  
8 stipulated for the approved Cost Proposal using the Project-Specific & Multi-Phase Contract Invoice  
9 Templates provided in the COUNTY Consulting Services Manual and shall reference this Agreement number  
10 and PROJECT title. Final invoice must contain the final cost and all credits due COUNTY including any  
11 equipment purchased under the provisions of Article XI Equipment Purchase of this Agreement. The final  
12 invoice shall be submitted within sixty (60) calendar days after completion of CONSULTANT's work. **Final**  
13 **invoices not submitted within sixty (60) calendar days after completion of CONSULTANT's work will**  
14 **not be paid.** Invoices shall be mailed to COUNTY Contract Administrator at the address provided in Article I,  
15 paragraph B.

16 H. The total amount payable by COUNTY including the fixed fee shall not exceed \$249,999.35.

17 I. Salary increases will be reimbursable if the new salary is within the salary range identified in the  
18 Compensation Plan and is approved by COUNTY Contract Administrator.

19 J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases,  
20 which are the direct result of changes in the prevailing wage rates are reimbursable.

21 K. The services included under the terms of this Agreement are funded in whole or in part as noted below:

22 Federal funds:  are included  are not included

23 State funds:  are included  are not included

24 **ARTICLE VI TERMINATION**

25 A. This Agreement may be terminated by COUNTY, provided that COUNTY gives not less than thirty (30)  
26 calendar days' written notice (delivered by certified mail, return receipt requested) to CONSULTANT of  
27 COUNTY's termination. Upon termination, COUNTY may proceed with the work in any manner deemed  
28 proper by COUNTY. COUNTY shall be entitled to all work, including but not limited to, reports, investigations,

1 appraisals, inventories, studies, analyses, drawings and date estimates performed to that date, whether  
2 complete or not.

3 B. COUNTY may temporarily suspend this Agreement, at no additional cost to COUNTY, provided that  
4 CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary  
5 suspension. If COUNTY gives such notice of temporary suspension, CONSULTANT shall immediately  
6 suspend its activities under this Agreement. A temporary suspension may be issued concurrent with the  
7 notice of termination.

8 C. Notwithstanding any provisions of this Agreement, CONSULTANT shall not be relieved of liability to COUNTY  
9 for damages sustained by COUNTY by virtue of any breach of this Agreement by CONSULTANT, and  
10 COUNTY may withhold any payments due to CONSULTANT until such time as the exact amount of  
11 damages, if any, due to COUNTY from CONSULTANT is determined.

12 D. In the event of termination, COUNTY shall pay CONSULTANT the sum due to CONSULTANT under this  
13 Agreement prior to termination, unless the cost of completion to COUNTY exceeds the funds remaining in the  
14 Agreement. In which case the overage shall be deducted from any sum due CONSULTANT under this  
15 Agreement and the balance, if any, shall be paid to CONSULTANT upon demand.

16 **ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

17 A. The CONSULTANT agrees that 48 CFR 31, Contract Cost Principles and Procedures, shall be used to  
18 determine the allowability of individual terms of cost.

19 B. The CONSULTANT also agrees to comply with federal procedures in accordance with 2 CFR 200, Uniform  
20 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

21 C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to  
22 be unallowable under 48 CFR 31 or 2 CFR 200 are subject to repayment by CONSULTANT to COUNTY.

23 **ARTICLE VIII RETENTION OF RECORDS/AUDIT**

24 The CONSULTANT, subconsultants, and COUNTY shall maintain and make available for inspection all books,  
25 documents, papers, accounting records, independent CPA Audited Indirect Cost Rate workpapers, and other  
26 evidence pertaining to the performance of the Agreement including, but not limited to, the costs of administering  
27 the Agreement. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and  
28 materials available at their respective offices at all reasonable times during the Agreement period and for three (3)

1 years from the date of final payment under the Agreement and records for real property and equipment acquired  
2 with federal funds must be retained for three (3) years after final disposition. COUNTY, Caltrans Auditor, FHWA,  
3 or any duly authorized representative of the federal government having jurisdiction under federal laws or  
4 regulations (including the basis of federal funding in whole or in part) shall have access to any books, records,  
5 and documents of the CONSULTANT, subconsultants, and the CONSULTANT's Independent CPA, that are  
6 pertinent to the Agreement for audits, examinations, workpaper review, excerpts, and transactions, and copies  
7 thereof shall be furnished if requested without limitation.

8 **ARTICLE IX AUDIT REVIEW PROCEDURES**

- 9 A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not  
10 disposed of by agreement, shall be reviewed by COUNTY's Chief Financial Officer.
- 11 B. Not later than thirty (30) days after issuance of the final audit report, CONSULTANT may request a review by  
12 COUNTY's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in  
13 writing.
- 14 C. Neither the pendency of a dispute nor its consideration by COUNTY will excuse CONSULTANT from full and  
15 timely performance, in accordance with the terms of this Agreement.
- 16 D. CONSULTANT and subconsultant agreements, including cost proposals and Indirect Cost Rates (ICR), may  
17 be subject to audits or reviews such as, but not limited to, an agreement audit, an incurred cost audit, an ICR  
18 Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, cost proposal  
19 and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR 31 and  
20 other related laws and regulations. In the instances of a CPA ICR audit work paper review it is  
21 CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to  
22 the CPA's work papers including making copies as necessary. The Agreement, cost proposal, and ICR shall  
23 be adjusted by CONSULTANT and approved by COUNTY Contract Administrator to conform to the audit or  
24 review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report  
25 shall be incorporated into the Agreement by this reference if directed by COUNTY at its sole discretion.  
26 Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal,  
27 state or local governments have access to CPA work papers, will be considered a breach of Agreement terms  
28 and cause for termination of this Agreement and disallowance of prior reimbursed costs.

1 E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the  
2 Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit  
3 and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and  
4 approved by the COUNTY Contract Administrator to conform to the Work Paper Review recommendations  
5 included in the management letter or audit recommendations included in the audit report. Refusal by the  
6 CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter  
7 or audit recommendations included in the audit report will be considered a breach of the Agreement terms  
8 and cause for termination of the Agreement and disallowance of prior reimbursed costs.

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

18 a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed  
19 will be ninety percent (90%) of the proposed rate.

20 b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent  
21 (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.

22 c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be  
23 seventy-five percent (75%) of the proposed rate.

24 2. If IOAI is unable to issue a cognizant letter per Article IX.E.1. above, IOAI may require CONSULTANT to  
25 submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective  
26 date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's  
27 and/or the independent CPA's revisions.

28 3. If the CONSULTANT fails to comply with the provisions of this Article IX.E, or if IOAI is still unable to issue

1 a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost  
2 reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR  
3 and set forth in Article IX.E.1. above for all rendered services. In this event, this accepted ICR will  
4 become the actual and final ICR for reimbursement purposes under this Agreement.

- 5 4. CONSULTANT may submit to COUNTY final invoice only when all of the following items have occurred:  
6 (1) IOAI accepts or rejects the original or revised independent CPA audited ICR; (2) all work under this  
7 Agreement has been completed to the satisfaction of COUNTY; and, (3) IOAI has issued its final ICR  
8 review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO COUNTY no later than sixty  
9 (60) days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and  
10 all other agreements executed between COUNTY and the CONSULTANT, either as a prime or  
11 subconsultant, with the same fiscal period ICR.

12 **ARTICLE X SUBCONTRACTING**

- 13 A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between COUNTY  
14 and any subconsultant(s), and no subagreement shall relieve CONSULTANT of its responsibilities and  
15 obligations hereunder. CONSULTANT agrees to be as fully responsible to COUNTY for the acts and  
16 omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is  
17 for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to  
18 pay its subconsultant(s) is an independent obligation from COUNTY's obligation to make payments to the  
19 CONSULTANT.
- 20 B. CONSULTANT shall perform the work contemplated with resources available within its own organization and  
21 no portion of the work shall be subcontracted without written authorization by COUNTY Contract  
22 Administrator, except that which is expressly identified in the CONSULTANT's Cost Proposal.
- 23 C. Any subagreement entered into as a result of this Agreement, shall contain all the provisions stipulated in this  
24 entire Agreement to be applicable to subconsultants unless otherwise noted.
- 25 D. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made  
26 to CONSULTANT by COUNTY.
- 27 E. Any substitution of subconsultants must be approved in writing by COUNTY Contract Administrator in  
28 advance of assigning work to a substitute subconsultant.

**ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES**

A. Prior authorization in writing by COUNTY Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

B. For purchase of any item, service or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by COUNTY Contract Administrator, three competitive quotations must be submitted with the request, or the absence of quotations must be adequately justified.

C. Any equipment purchased with funds provided under the terms of this Agreement is subject to the following:

1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, COUNTY shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, CONSULTANT may either keep the equipment and credit COUNTY 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 COUNTY procedures; and credit COUNTY 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 COUNTY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by COUNTY.

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

**ARTICLE XII STATE PREVAILING WAGE RATES**

A. No CONSULTANT or subconsultant may be awarded an agreement containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this Agreement, including any subsequent amendments.



1 B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring  
2 the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under  
3 this Agreement are available and on file with the Department of Transportation's Regional/District Labor  
4 Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made  
5 a specific part of this Agreement by reference pursuant to Labor Code §1773.2 and will be applicable to work  
6 performed at a construction project site. Prevailing wages will be applicable to all inspection work performed  
7 at COUNTY construction sites, at COUNTY facilities and at off-site locations that are set up by the  
8 construction contractor or one of its subcontractors solely and specifically to serve COUNTY projects.  
9 Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and  
10 commercial materials suppliers that provide goods and services to the general public.

11 C. General Prevailing Wage Rate Determinations applicable to this PROJECT may also be obtained from the  
12 Department of Industrial Relations website at <http://www.dir.ca.gov>.

13 D. Payroll Records

14 1. Each CONSULTANT and subconsultant shall keep accurate certified payroll records and supporting  
15 documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name,  
16 address, social security number, work classification, straight time and overtime hours worked each day  
17 and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other  
18 employee employed by the CONSULTANT or subconsultant in connection with the public work. Each  
19 payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury,  
20 stating both of the following:

21 a. The information contained in the payroll record is true and correct.

22 b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for  
23 any work performed by his or her employees on the public works project.

24 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the  
25 CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made  
26 available for inspection and copying by COUNTY representatives at all reasonable hours at the principal  
27 office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit  
28 inspection of its records as follows:

- a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
  - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to COUNTY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
  - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the COUNTY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
  4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by COUNTY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or subconsultant performing the work shall not be marked or obliterated.
  5. The CONSULTANT shall inform COUNTY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
  6. The CONSULTANT or subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to COUNTY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by COUNTY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a subconsultant to comply with this section.

E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified

1 payroll requirements. Invoice payment will not be made until the invoice is approved by the COUNTY  
2 Contract Administrator.

3 F. Penalty

- 4 1. The CONSULTANT and any of its subconsultants shall comply with Labor Code §1774 and §1775.  
5 Pursuant to Labor Code §1775, the CONSULTANT and any subconsultant shall forfeit to the COUNTY a  
6 penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each  
7 worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in  
8 which the worker is employed for any public work done under the Agreement by the CONSULTANT or by  
9 its subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770  
10 to 1780, inclusive.
- 11 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on  
12 consideration of mistake, inadvertence, or neglect of the CONSULTANT or subconsultant in failing to pay  
13 the correct rate of prevailing wages, or the previous record of the CONSULTANT or subconsultant in  
14 meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or  
15 subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to  
16 pay the correct rates of prevailing wages is not excusable if the CONSULTANT or subconsultant had  
17 knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the  
18 appropriate rate, including any escalations that take place during the term of the Agreement.
- 19 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage  
20 rates and the amount paid to each worker for each calendar day or portion thereof for which each worker  
21 was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or  
22 subconsultant.
- 23 4. If a worker employed by a subconsultant on a public works project is not paid the general prevailing per  
24 diem wages by the subconsultant, the prime CONSULTANT of the project is not liable for the penalties  
25 described above unless the prime CONSULTANT had knowledge of that failure of the subconsultant to  
26 pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to  
27 comply with all of the following requirements:
- 28 a. The Agreement executed between the CONSULTANT and the subconsultant for the performance

1 of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771,  
2 1775, 1776, 1777.5, 1813, and 1815.

3 b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem  
4 wages by the subconsultant to the employees by periodic review of the certified payroll records of  
5 the subconsultant.

6 c. Upon becoming aware of the subconsultant's failure to pay the specified prevailing rate of wages  
7 to the subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or  
8 rectify the failure, including but not limited to, retaining sufficient funds due the subconsultant for  
9 work performed on the public works project.

10 d. Prior to making final payment to the subconsultant for work performed on the public works project,  
11 the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the subconsultant  
12 that the subconsultant had paid the specified general prevailing rate of per diem wages to the  
13 subconsultant's employees on the public works project and any amounts due pursuant to Labor  
14 Code §1813.

15 5. Pursuant to Labor Code §1775, COUNTY shall notify the CONSULTANT on a public works project within  
16 fifteen (15) calendar days of receipt of a complaint that a subconsultant has failed to pay workers the  
17 general prevailing rate of per diem wages.

18 6. If COUNTY determines that employees of a subconsultant were not paid the general prevailing rate of  
19 per diem wages and if COUNTY did not retain sufficient money under the Agreement to pay those  
20 employees the balance of wages owed under the general prevailing rate of per diem wages, the  
21 CONSULTANT shall withhold an amount of moneys due the subconsultant sufficient to pay those  
22 employees the general prevailing rate of per diem wages if requested by COUNTY.

23 G. Hours of Labor

24 Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the  
25 COUNTY, twenty-five dollars (\$25) for each worker employed in the execution of the Agreement by the  
26 CONSULTANT or any of its subconsultants for each calendar day during which such worker is required or  
27 permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar  
28 week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive,

1       except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during  
2       any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per  
3       day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as  
4       provided in §1815.

5       H. Employment of Apprentices

6             1. Where either the prime Agreement or the subagreement exceeds thirty thousand dollars (\$30,000), the  
7             CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of  
8             Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.

9             2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding  
10            the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior  
11            to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division  
12            of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding  
13            the employment of apprentices and for the specific journey-to- apprentice ratios for the Agreement work.

14            The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties  
15            are specified in Labor Code §1777.7.

16       **ARTICLE XIII CONFLICT OF INTEREST**

17       A. CONSULTANT shall cause itself, its respective employees, agents, representatives, or independent  
18       contractors and its subconsultants as well as their respective employees, agents, representatives, or  
19       independent contractors to comply with all applicable conflict of interest laws and regulations, including but  
20       not limited to the Political Reform Act and California Government Code section  
21       1090. Furthermore, CONSULTANT shall cause itself, its respective employees, agents, representatives, or  
22       independent contractors and its subconsultants as well as their respective employees, agents,  
23       representatives, or independent contractors to comply with the COUNTY's Conflict of Interest  
24       Code. CONSULTANT further agrees to cause itself, its respective employees, agents, representatives, or  
25       independent contractors to complete any statements of economic interest if required by COUNTY or State  
26       law. Notwithstanding any other provision contained in this Agreement, for a breach or violation of this  
27       provision, COUNTY shall have the right to immediately terminate this Agreement without liability and seek any  
28       other remedy provided by law or equity or this Agreement.

- 1 B. During the term of this Agreement, the CONSULTANT shall disclose any financial, business, or other  
2 relationship with COUNTY that may have an impact upon the outcome of this Agreement or any ensuing  
3 COUNTY construction project. The CONSULTANT shall also list current clients who may have a financial  
4 interest in the outcome of this Agreement or any ensuing COUNTY construction project which will follow.
- 5 C. CONSULTANT certifies that it has disclosed to COUNTY any actual, apparent, or potential conflicts of interest  
6 that may exist relative to the services to be provided pursuant to this Agreement. CONSULTANT agrees to  
7 advise COUNTY of any actual, apparent or potential conflicts of interest that may develop subsequent to the  
8 date of execution of this Agreement.
- 9 D. CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest  
10 that would conflict with the performance of services under this Agreement.
- 11 E. The CONSULTANT (nor any subconsultant nor any firms affiliated with the CONSULTANT or any  
12 subconsultant) shall not be eligible to perform any further phases of this PROJECT or to bid on any  
13 construction contract or on any Agreement to provide construction inspection for any construction project  
14 resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons,  
15 though joint ownership or otherwise.

16 **ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

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

22 **ARTICLE XV PROHIBITION OF EXPENDING COUNTY STATE OR FEDERAL FUNDS FOR LOBBYING**

23 If Article V.K identifies that federal funds are used, in whole or in part, to fund the services performed under this  
24 Agreement and such federal funding will exceed \$150,000 then compliance with the provisions of Article XV as  
25 described below is required. If Article V.K identifies that services are not funded in whole or in part with Federal  
26 funds of such federal funding will be less than \$150,000 then compliance with the requirements of Article XV is  
27 not required.

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

1 1. No state, federal or COUNTY appropriated funds have been paid or will be paid, by or on behalf of the  
2 CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any  
3 local, state or federal agency, a Member of the State Legislature or United States Congress, an officer or  
4 employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in  
5 connection with the awarding of making of this Agreement, or with the extension, continuation, renewal,  
6 amendment, or modification of this Agreement.

7 2. If any funds other than federal appropriated funds have been paid or will be paid to any person for  
8 influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an  
9 officer or employee of Congress, or an employee of a Member of Congress in connection with this  
10 Agreement, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to  
11 Report Lobbying", in accordance with its instructions.

12 B. This certification is a material representation of fact upon which reliance was placed when this transaction  
13 was made or entered into. Submission of this certification is a prerequisite for making or entering into this  
14 transaction imposed by 31 U.S.C. Section 1352. Any person who fails to file the required certification shall be  
15 subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred  
16 thousand dollars (\$100,000) for each such failure.

17 C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this  
18 certification be included in all lower tier subagreements, which exceed one hundred thousand dollars  
19 (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

20 **ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE**

21 A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of  
22 perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with the  
23 nondiscrimination program requirements of Government Code Section 12990 and 2 California Code of  
24 Regulations (CCR) Section 8103.

25 B. During the performance of this Agreement, CONSULTANT and its subconsultants shall not deny the  
26 Agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry,  
27 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,  
28 gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they

1 unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment  
2 because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical  
3 condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
4 orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation  
5 and treatment of their employees and applicants for employment are free from such discrimination and  
6 harassment.

7 C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act  
8 (Government Code Section 12990 et seq.), the applicable regulations promulgated there under (2 CCR  
9 Section 11000 et seq.), the provisions of Government Code Sections 11135-11139.5, and the regulations or  
10 standards adopted by COUNTY to implement such article. The applicable regulations of the Fair Employment  
11 and Housing Commission implementing Government Code Section 12990 (a-f), set forth 2 CCR Sections  
12 8100-8504, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

13 D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing  
14 and the COUNTY upon reasonable notice at any time during the normal business hours, but in no case less  
15 than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of  
16 information and its facilities as said Department or COUNTY shall require to ascertain compliance with this  
17 cause.

18 E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor  
19 organizations with which they have a collective bargaining or other agreement.

20 F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all  
21 subcontracts to perform work under this Agreement.

22 G. The CONSULTANT, with regard to the work under this Agreement, shall act in accordance with Title VI of the  
23 Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.). Title VI provides that the recipients of federal  
24 assistance will implement and maintain a policy of nondiscrimination in which no person in the United States  
25 shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in,  
26 denied the benefits of or subject to discrimination under any program or activity by the recipients of federal  
27 assistance or their assignees and successors in interest.

28 H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs



1 of the U.S. Department of Transportation (49 CFR 21 – Effectuation of Title VI of the Civil Rights Act of 1964).  
2 Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited  
3 by 49 CFR Section 21.5, including employment practices and the selection and retention of subconsultants.

- 4 I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any  
5 person the benefits of, or otherwise discriminate against anyone in connection with the award and  
6 performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In  
7 administering the COUNTY components of DBE Program Plan, CONSULTANT, subrecipient or subconsultant  
8 will not, directly or through contractual or other arrangements, use criteria or methods of administration that  
9 have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program  
10 Plan with respect to individuals of a particular race, color, sex, or national origin.

11 **ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION**

- 12 A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the  
13 laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of  
14 owner, partner, director, officer or manager:

- 15 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by  
16 any federal agency;  
17 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal  
18 agency within the past three (3) years;  
19 3. Does not have a proposed debarment pending; and  
20 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent  
21 jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

- 22 B. Any exceptions to this certification must be disclosed to COUNTY. Exceptions will not necessarily result in  
23 denial of recommendation for award, but will be considered in determining responsibility. Disclosures must  
24 indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

- 25 C. Exceptions to the Federal Government excluded parties (<https://sam.gov/content/home>) maintained by the  
26 U.S. General Services Administration are to be determined by the Federal Highway Administration (FHWA).

27 **ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

28 If Article V.K identifies that Federal funds are used, in whole or in part, to fund the services performed under this

1 Agreement then compliance with the provisions of Article XVIII as described below is required. If Article V.K  
2 identifies that services are not funded in whole or in part with Federal funds than compliance with the  
3 requirements of Article XVIII is not required.

4 A. CONSULTANT or subconsultants shall take necessary and reasonable steps to ensure that DBEs have  
5 opportunities to participate in the Agreement (49 CFR 26). To ensure equal participation of DBEs provided in  
6 49 CFR 26.5, the COUNTY shows a contract goal for DBEs. CONSULTANT shall make work available to  
7 DBEs and select work parts consistent with available DBE subconsultants and suppliers.

8 CONSULTANT shall meet the DBE goal shown elsewhere in these specials provisions or demonstrate that  
9 they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify at date  
10 of proposal opening that the DBE firm is certified as a DBE by using the California Unified Certification  
11 Program (CUCP) database and possesses the most specific available North American Industry Classification  
12 System (NAICS) codes or work code applicable to the type of work the firm will perform on the Agreement.  
13 Additionally, the CONSULTANT is responsible to document the verification record by printing out the CUCP  
14 data for each DBE firm. A list of DBE's certified by the CUCP can be found at [https://dot.ca.gov/prgrams/civil-  
rights/dbe-search](https://dot.ca.gov/prgrams/civil-<br/>15 rights/dbe-search).

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

- 19 • 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 20 • 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- 21 • Only fees, commissions, and charges for assistance in the procurement and delivery of materials or  
22 supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 40 CFR  
23 26.55 defines "manufacturer" and "regular dealer."

24 This Agreement is subject to 49 CFR 26 entitled "Participation by Disadvantaged Business Enterprises in  
25 Department of Transportation Financial Assistance Programs." CONSULTANTS who enter into a federally-  
26 funded agreement will assist the COUNTY in a good faith efforts to achieve California's statewide overall DBE  
27 goal.

28 B. The goal for DBE participation for this Agreement is *N/A*. Participation by DBE CONSULTANT or

1 subconsultants shall be in accordance with information contained in Exhibit 10-02: Consultant Contract DBE  
2 Commitment attached hereto and incorporated as part of the Agreement. If a DBE subconsultant is unable to  
3 perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if  
4 the goal is not otherwise met.

5 C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the  
6 Agreement goal, or by documenting adequate good faith efforts to meet the Agreement goal. An adequate  
7 good faith means that the CONSULTANT must show that it took all necessary and reasonable steps to  
8 achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be  
9 expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit  
10 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR 26 for  
11 guidance regarding evaluation of good faith efforts to meet the DBE goal.

12 D. Contract Assurance

13 Under 49 CFR 26.13(b):

14 CONSULTANT, subrecipients or subconsultants shall not discriminate on the basis of race, color, national  
15 origin, or sex in the performance of this Agreement. CONSULTANT shall carry out applicable requirements of  
16 49 CFR 26 in the award and administration of federal-aid contracts.

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

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

24 E. Termination and Substitution of DBE subconsultants

25 CONSULTANT shall utilize the specific DBE listed to perform the work and supply the materials for which  
26 each is listed unless CONSULTANT or DBE subconsultant obtains the COUNTY's written consent.

27 CONSULTANT shall not terminate or substitute a listed DBE for convenience and perform the work with their  
28 own forces or obtain materials from other sources without authorization from the COUNTY. Unless the

1 COUNTY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material  
2 unless it is performed or supplied by the listed DBE on the Exhibit 10-02: Consultant Contract DBE  
3 Commitment form, included in the Bid.

4 The COUNTY authorizes a request to use other forces or sources of materials if CONSULTANT shows any of  
5 the following justifications:

- 6 1) Listed DBE fails or refuses to execute a written contract based on plans and specifications for the  
7 project.
- 8 2) The COUNTY stipulate that a bond is a condition of executing the subcontract and the listed DBE  
9 fails to meet the COUNTY's bond requirements.
- 10 3) Work requires a CONSULTANT's license and listed DBE does not have a valid license under  
11 Contractors License Law.
- 12 4) Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to  
13 perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith  
14 or discrimination).
- 15 5) Listed DBE's work is unsatisfactory and not in compliance with the Agreement.
- 16 6) Listed DBE is ineligible to work on the project because of suspension or debarment.
- 17 7) Listed DBE becomes bankrupt or insolvent.
- 18 8) Listed DBE voluntarily withdraws with written notice from the Agreement.
- 19 9) Listed DBE is ineligible to receive credit for the type of work required.
- 20 10) Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the  
21 Agreement.
- 22 11) The COUNTY determines other documented good cause.

23 CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide  
24 the reasons and provide the DBE with 5 days to respond to the notice and advise CONSULTANT and the  
25 COUNTY of the reasons why the use of other forces or sources of materials should not occur.

26 CONSULTANT's request to use other forces or material sources must include:

- 27 1) One or more of the reasons listed in the preceding paragraph.
- 28 2) Notices from CONSULTANT to the DBE regarding the request.

1           3) Notices for the DBEs to CONSULTANT regarding the request.

2           If a listed DBE is terminated or substituted, CONSULTANT must make good faith efforts to find another DBE  
3           to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the  
4           original DBE under the Agreement to the extent to meet or exceed the DBE goal.

5    F. Commitment and Utilization

6           The COUNTY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE  
7           commitments reconcile to DBE utilization.

8           CONSULTANT shall:

- 9           1) Notify the COUNTY Contract Administrator or designated representative of any changes to its  
10           anticipated DBE participation.
- 11           2) Provide this notification before starting the affected work.
- 12           3) Maintain records including:
- 13                   • Name and business address of each 1<sup>st</sup>-tier subconsultant
  - 14                   • Name and business address of each DBE subconsultant, DBE vendor, and DBE  
15                   trucking company, regardless of tier
  - 16                   • Date of payment and total amount paid to each business (see Exhibit 9-F: Monthly  
17                   Disadvantaged Business Enterprise Payment)

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

20           If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the  
21           decertified date. If a business becomes a certified DBE before completing its work, the business must notify  
22           CONSULTANT in writing of the certification date. CONSULTANT shall complete a Disadvantaged Business  
23           Enterprise (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the COUNTY within  
24           thirty (30) days of Agreement acceptance.

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

1 In the COUNTY's reports of DBE participation to Caltrans, the COUNTY must display both commitments and  
2 attainments.

3 G. A DBE is only eligible to be counted toward the Agreement goal if it performs a commercially useful function  
4 (CUF) on the Agreement. CUF must be evaluated on an agreement by agreement basis. A DBE performs a  
5 CUF when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities  
6 by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also  
7 be responsible, with respect to quantity, ordering the material and installing (where applicable), and paying for  
8 the material itself, industry practices, whether the amount the firm is to be paid under the Agreement is  
9 commensurate with the work it is actually performing, and other relevant factors.

10 H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, agreement,  
11 or project through which funds are passed in order to obtain the appearance of DBE participation. In  
12 determining whether a DBE is such an extra participant, examine similar transactions, particularly those in  
13 which DBEs do not participate.

14 I. A DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its  
15 Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement  
16 than would be expected on the basis of normal industry practice for the type of work involved, it will be  
17 presumed that it is not performing a CUF.

18 J. CONSULTANT shall maintain records of materials purchased or supplied for all subcontracts entered into with  
19 certified DBEs. The record shall show the name and business address of each DBE or vendor and the total  
20 dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of  
21 payment and the total dollar figure paid to all firms, DBE CONSULTANT's shall also show the date of work  
22 performed by their own forces along with the corresponding dollar value of the work.

23 K. If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify  
24 CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during  
25 the life of the Agreement, the subconsultant shall notify CONSULTANT in writing with the date of certification.  
26 Any changes should be reported to COUNTY Contract Administrator within thirty (30) calendar days.

27 L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10<sup>th</sup> of  
28 the following month, the prime contractor/consultant shall complete and email the Exhibit 9-F: Disadvantaged

1 Business Enterprise Running Tally of Payments to [business.support.unit@dot.ca.gov](mailto:business.support.unit@dot.ca.gov) with a copy to the  
2 Agency.

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

4 **ARTICLE XIX INDEMNIFICATION AND INSURANCE**

5 A. Basic Indemnity

6 1. To the fullest extent permitted by applicable law, CONSULTANT agrees to defend (through legal counsel  
7 reasonably acceptable to COUNTY), indemnify, and hold harmless the County of Riverside, its Agencies,  
8 Districts, Departments and Special Districts, Board of Supervisors, elected and appointed officials, and  
9 each of their respective directors, members officers, employees, agents, volunteers and representatives  
10 ("Indemnitees") and each of them from any and all Losses that arise out of or relate to any act or  
11 omission constituting ordinary and not professional negligence (including, without limitation, negligent  
12 breach of contract), recklessness, or willful misconduct on the part of CONSULTANT or its subconsultants  
13 or their respective employees, agents, representatives, or independent contractors.

14 2. "Losses" shall mean any and all economic and non-economic losses, costs, liabilities, claims, damages,  
15 actions, judgments, settlements and expenses, including, without limitation, full and actual attorney's fees  
16 (including, without limitation, attorney's fees for trial and on appeal), expert and non-expert witness fees,  
17 arbitrator and arbitration fees and mediator and mediation fees.

18 3. CONSULTANT further agrees to and shall indemnify and hold harmless the Indemnitees from all liability  
19 arising from suits, claims, demands, actions, or proceedings made by agents, employees or  
20 subcontractors of CONSULTANT for salary, wages, compensation, health benefits, insurance, retirement  
21 or any other benefit not explicitly set forth in this Agreement and arising out of work performed for  
22 COUNTY pursuant to this Agreement. The Indemnitees shall be entitled to the defense and  
23 indemnification provided for hereunder regardless of whether the Loss is in part caused or contributed to  
24 by the acts or omissions of an Indemnitee or any other person or entity; provided however, that nothing  
25 contained herein shall be construed as obligating CONSULTANT to indemnify and hold harmless any  
26 Indemnitee to the extent not required under the provisions of Paragraph B. below.

27 B. Indemnity for Design Professional Services

28 1. To the fullest extent permitted by Applicable Law, CONSULTANT agrees to defend (through legal counsel

1 reasonably acceptable to COUNTY), indemnify and hold harmless the Indemnitees, and each of them,  
2 against any and all Losses that arise out of, pertain to, or relate to, any negligence, recklessness or willful  
3 misconduct constituting professional negligence on the part of CONSULTANT or its subconsultants, or  
4 their respective employees, agents, representatives, or independent contractors. The Indemnitees shall  
5 be entitled to the defense, and indemnification provided for hereunder regardless of whether the Loss is,  
6 in part, caused or contributed to by the acts or omissions of an Indemnitee or any other person or entity;  
7 provided, however, that nothing contained herein shall be construed as obligating CONSULTANT to  
8 indemnify and hold harmless any Indemnitee to the extent not required under the provisions of this  
9 section. CONSULTANT shall defend and pay, all costs and fees, including but not limited to attorney fees,  
10 cost of investigation, and defense, in any loss, suits, claims, demands, actions, or proceedings to the  
11 extent and in proportion to the percentage, such costs and fees arise out of, pertain to, or relate to the  
12 negligence, recklessness or willful misconduct of CONSULTANT arising out of or from the performance of  
13 professional design services under this Agreement. The duty to defend applies to any alleged or actual  
14 negligence, recklessness, willful misconduct of CONSULTANT. The cost for defense shall apply whether  
15 or not CONSULTANT is a party to the lawsuit and shall apply whether or not CONSULTANT is directly  
16 liable to the plaintiffs in the lawsuit. The duty to defend applies even if Indemnitees are alleged or found to  
17 be actively negligent, but only in proportion to the percentage of fault or negligence of CONSULTANT.

- 18 2. Without affecting the rights of COUNTY under any other provision of this Agreement, CONSULTANT shall  
19 not be required to indemnify or hold harmless or provide defense or defense costs to an Indemnitee for a  
20 Loss due to that Indemnitee's negligence, recklessness or willful misconduct; provided, however, that  
21 such negligence, recklessness or willful misconduct has been determined by agreement of  
22 CONSULTANT and Indemnitee or has been adjudged by the findings of a court of competent jurisdiction.
- 23 3. CONSULTANT agrees to obtain or cause to be obtained executed defense and indemnity agreements  
24 with provisions identical to those set forth in this section from each and every subconsultant, of every  
25 Tier.
- 26 4. CONSULTANT's indemnification obligations under this Agreement shall not be limited by the amount or  
27 type of damages, compensation or benefits payable under any policy of insurance, workers'  
28 compensation acts, disability benefit acts or other employee benefit acts.



1 5. The Indemnitees shall be entitled to recover their attorneys' fees, costs and expert and consultant costs in  
2 pursuing or enforcing their right to defense and/or indemnification under this Agreement.

3 C. INSURANCE

4 Without limiting or diminishing the CONSULTANT's obligation to indemnify or hold the COUNTY harmless,  
5 CONSULTANT shall procure and maintain or cause to be maintained, at its sole cost and expense, the  
6 following insurance coverage's during the term of this Agreement. As respects to the insurance section only,  
7 the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and  
8 Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed  
9 officials, agents or representatives as Additional Insureds.

10 1. Workers' Compensation:

11 If the CONSULTANT has employees as defined by the State of California, the CONSULTANT shall  
12 maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State  
13 of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with  
14 limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive  
15 subrogation in favor of the County of Riverside.

16 2. Commercial General Liability:

17 Commercial General Liability insurance coverage, including but not limited to, premises liability,  
18 unmodified contractual liability, products and completed operations liability, personal and advertising  
19 injury, and cross liability coverage, covering claims which may arise from or out of CONSULTANT's  
20 performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's  
21 limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance  
22 contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2)  
23 times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

24 3. Vehicle Liability:

25 If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then  
26 CONSULTANT shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an  
27 amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a  
28 general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the

1 occurrence limit. Policy shall name the COUNTY as Additional Insureds.

2 4. Professional Liability

3 CONSULTANT shall maintain Professional Liability Insurance providing coverage for the  
4 CONSULTANT's performance of work included within this Agreement, with a limit of liability of not less  
5 than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If CONSULTANT's Professional  
6 Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance  
7 shall continue through the term of this Agreement and CONSULTANT shall purchase at his sole expense  
8 either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates  
9 Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this  
10 Agreement; or 3) demonstrate through Certificates of Insurance that CONSULTANT has maintained  
11 continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will  
12 continue as long as the law allows.

13 5. General Insurance Provisions - All lines:

14 a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of  
15 California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are  
16 waived, in writing, by the COUNTY Risk Manager. If the COUNTY's Risk Manager waives a  
17 requirement for a particular insurer such waiver is only valid for that specific insurer and only for one  
18 policy term.

19 b. The CONSULTANT must declare its insurance self-insured retention for each coverage required  
20 herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall  
21 have the prior written consent of the COUNTY Risk Manager before the commencement of  
22 operations under this Agreement. Upon notification of self-insured retention unacceptable to the  
23 COUNTY, and at the election of the COUNTY's Risk Manager, CONSULTANT's carriers shall either;  
24 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2)  
25 procure a bond which guarantees payment of losses and related investigations, claims administration,  
26 and defense costs and expenses.

27 c. CONSULTANT shall cause CONSULTANT's insurance carrier(s) to furnish the County of Riverside  
28 with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of

1 Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing  
2 by the COUNTY Risk Manager, provide original Certified copies of policies including all  
3 Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further,  
4 said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that  
5 thirty (30) days written notice shall be given to the County of Riverside prior to any material  
6 modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a  
7 material modification, cancellation, expiration, or reduction in coverage, this Agreement shall  
8 terminate forthwith, unless the County of Riverside receives, prior to such effective date, another  
9 properly executed original Certificate of Insurance and original copies of endorsements or certified  
10 original policies, including all endorsements and attachments thereto evidencing coverage's set forth  
11 herein and the insurance required herein is in full force and effect. CONSULTANT shall not  
12 commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and  
13 certified original copies of endorsements and if requested, certified original policies of insurance  
14 including all endorsements and any and all other attachments as required in this Section. An  
15 individual authorized by the insurance carrier to do so on its behalf shall sign the original  
16 endorsements for each policy and the Certificate of Insurance.

- 17 d. It is understood and agreed to by the parties hereto that the CONSULTANT's insurance shall be  
18 construed as primary insurance, and the COUNTY's insurance and/or deductibles and/or self-insured  
19 retention's or self-insured programs shall not be construed as contributory.
- 20 e. If, during the term of this Agreement or any extension thereof, there is a material change in the scope  
21 of services; or, there is a material change in the equipment to be used in the performance of the  
22 scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5)  
23 years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of  
24 liability required under this Agreement, if in the COUNTY Risk Manager's reasonable judgment, the  
25 amount or type of insurance carried by the CONSULTANT has become inadequate.
- 26 f. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of  
27 subconsultants working under this Agreement.
- 28 g. The insurance requirements contained in this Agreement may be met with a program(s) of self-

1 insurance acceptable to the COUNTY.

2 h. CONSULTANT agrees to notify COUNTY of any claim by a third party or any incident or event that  
3 may give rise to a claim arising from the performance of this Agreement.

4 **ARTICLE XX FUNDING REQUIREMENTS**

5 A. It is mutually understood between the parties that this Agreement may have been written before ascertaining  
6 the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid  
7 program and fiscal delays that would occur if the Agreement were executed after that determination was  
8 made.

9 B. This Agreement is valid and enforceable only if sufficient funds are made available to COUNTY for the  
10 purpose of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations,  
11 conditions, or any statute enacted by the Congress, State Legislature, or COUNTY governing board that may  
12 affect the provisions, terms, or funding of this Agreement in any manner.

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

15 D. COUNTY has the option to terminate the Agreement pursuant to Article VI Termination, or by mutual  
16 agreement to amend the Agreement to reflect any reduction of funds.

17 **ARTICLE XXI CHANGE IN TERMS**

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

19 B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and  
20 notification to proceed has been provided by COUNTY Contract Administrator.

21 C. There shall be no change in CONSULTANT Project Manager or members of the project team, as listed as  
22 Key Personnel in the approved Scope of Services, which is a part of this Agreement without prior written  
23 approval by COUNTY Contract Administrator.

24 **ARTICLE XXII CONTINGENT FEE**

25 CONSULTANT warrants, by execution of this Agreement that no person or selling agency has been employed, or  
26 retained, to solicit or secure this Agreement upon an agreement or understanding, for a commission, percentage,  
27 brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling  
28 agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this

1 warranty, COUNTY has the right to annul this Agreement without liability; pay only for the value of the work  
2 actually performed, or in its discretion to deduct from the Agreement price or consideration, or otherwise recover  
3 the full amount of such commission, percentage, brokerage, or contingent fee.

4 **ARTICLE XXIII DISPUTES**

5 A. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith,  
6 to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of  
7 good-faith negotiations and as may be otherwise provided herein, then either party may commence legal  
8 action against the other. This Agreement shall be governed by the laws of the State of California. Any legal  
9 action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court  
10 of the State of California located in Riverside, California, and the parties waive any provision of law providing  
11 for a change of venue to another location. In the event any provision in this Agreement is held by a court of  
12 competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless  
13 continue in full force without being impaired or invalidated in any way.

14 B. Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed  
15 of by agreement shall be decided by a committee consisting of COUNTY Contract Administrator and Director  
16 of Transportation, or designee, who may consider written or verbal information submitted by CONSULTANT.

17 C. Not later than thirty (30) days after completion of all deliverables necessary to complete the plans,  
18 specifications and estimate, CONSULTANT may request review by COUNTY Governing Board of unresolved  
19 claims or disputes, other than audit. The request for review will be submitted in writing.

20 D. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full  
21 and timely performance in accordance with the terms of this Agreement.

22 **ARTICLE XXIV INSPECTION OF WORK**

23 CONSULTANT and any subconsultant shall permit COUNTY, the state, and the FHWA if federal participating  
24 funds are used in this Agreement; to review and inspect the project activities and files at all reasonable times  
25 during the performance period of this Agreement.

26 **ARTICLE XXV SAFETY**

27 A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety  
28 equipment or procedures. CONSULTANT shall comply with safety instructions issued by COUNTY Safety

1 Officer and other COUNTY representatives. CONSULTANT personnel shall wear hard hats and safety vests  
2 at all times while working on the construction project site.

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

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

9 D. In the event CONSULTANT performs trenching of five (5) feet or deeper in the performance any service  
10 provided under this Agreement, CONSULTANT must have a Division of Occupational Safety and Health  
11 (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of  
12 any practices, work, method, operation, or process related to the construction or excavation of trenches which  
13 are five (5) feet or deeper.

14 **ARTICLE XXVI OWNERSHIP OF DATA**

15 A. It is mutually agreed that all materials prepared by CONSULTANT under this Agreement shall become the  
16 property of COUNTY, and CONSULTANT shall have no property rights therein whatsoever. Immediately,  
17 upon termination, COUNTY shall be entitled to, and CONSULTANT shall deliver to COUNTY, reports,  
18 investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date,  
19 whether completed or not, and other such materials as may have been prepared or accumulated to date by  
20 CONSULTANT in performing this Agreement which is not CONSULTANT's privileged information, as defined  
21 by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to  
22 COUNTY which is in CONSULTANT's possession. Publication of the information derived from work  
23 performed or data obtained in connection with services rendered under this Agreement must be approved in  
24 writing by COUNTY.

25 B. Additionally, it is agreed that the Parties intend this to be an Agreement for services and each considers the  
26 products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire.  
27 CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation,  
28 copyright) belongs to and shall be the sole and exclusive property of COUNTY without restriction or limitation

1 upon its use or dissemination by COUNTY.

2 C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work  
3 product is suitable in any way for any other project except the one detailed in this Agreement. Any reuse by  
4 COUNTY for another project or project location shall be at COUNTY's sole risk.

5 D. COUNTY may permit copyrighting reports or other agreement products. If copyrights are permitted; the  
6 Agreement shall provide that the FHWA and COUNTY shall have the royalty-free nonexclusive and  
7 irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for  
8 government purposes.

9 **ARTICLE XXVII CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR**

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

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

19 C. Services of CONSULTANT's personnel in connection with COUNTY's construction contractor claims will be  
20 performed pursuant to a written contract amendment, if necessary, extending the termination date of this  
21 Agreement in order to resolve the construction claims.

22 **ARTICLE XXVIII CONFIDENTIALITY OF DATA**

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

26 B. Permission to disclose information on one occasion, or public hearing held by COUNTY relating to the  
27 Agreement, shall not authorize CONSULTANT to further disclose such information, or disseminate the same  
28 on any other occasion.

- 1 C. CONSULTANT shall not comment publicly to the press or any other media regarding the Agreement or  
2 COUNTY's actions on the same, except to COUNTY's staff, CONSULTANT's own personnel involved in the  
3 performance of this Agreement, at public hearings or in response to questions from a Legislative committee.
- 4 D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding  
5 work performed or to be performed under this Agreement without prior review of the contents thereof by  
6 COUNTY, and receipt of COUNTY's written permission.
- 7 E. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.
- 8 F. All information related to the construction estimate is confidential and shall not be disclosed by  
9 CONSULTANT to any entity other than COUNTY, Caltrans, and/or FHWA. All of the materials prepared or  
10 assembled by CONSULTANT pursuant to the performance of this Agreement are confidential and  
11 CONSULTANT agrees that they shall not be made available to any individual or organization without the prior  
12 written approval of COUNTY or except by court order. If CONSULTANT or any of its officers, employees, or  
13 subcontractors does voluntarily provide information in violation of this Agreement, COUNTY has the right to  
14 reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the  
15 information, including, but not limited to, COUNTY's attorney's fees and disbursements, including without  
16 limitation expert's fees and disbursements.

17 **ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

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

23 **ARTICLE XXX LEGAL COMPLIANCE**

24 CONSULTANT shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations,  
25 and the orders and decrees of any courts or administrative bodies or tribunals currently in effect and in any  
26 manner affecting the performance of this Agreement, including, without limitation, workers' compensation laws  
27 and licensing and regulations. Failure to comply with the foregoing by CONSULTANT may be grounds for  
28 termination by the COUNTY.



1 **ARTICLE XXXI EVALUATION OF CONSULTANT**

2 CONSULTANT's performance will be evaluated by COUNTY. A copy of the evaluation will be sent to  
3 CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the  
4 Agreement record.

5 **ARTICLE XXXII RETENTION OF FUNDS**

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

7 B. COUNTY will withhold the last ten percent (10%) of the budget for preparation of the final PS&E documents.

8 The ten percent (10%) retainage is to be held after ninety percent (90%) of the PS&E phase has been billed  
9 and is not to be deducted from each invoice. The amount retained will be paid to CONSULTANT after  
10 COUNTY has approved CONSULTANT's PS&E documents. The CONSULTANT, or subconsultant, shall  
11 return all monies withheld in retention from a subconsultant within thirty (30) days after receiving payment.  
12 Federal law (49 CFR 26.29) requires that any delay or postponement of payment over thirty (30) days may  
13 take place only for good cause and with the COUNTY's prior written approval. Any violation of this provision  
14 shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies  
15 specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be  
16 construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the  
17 CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the  
18 CONSULTANT, deficient subconsultant performance, or noncompliance by a subconsultant. This provision  
19 applies to both DBE and non-DBE prime consultant and subconsultants.

20 **ARTICLE XXXIII TITLE VI ASSURANCES**

21 CONSULTANT shall comply with the assurances set forth in Attachment D, Title VI Assurances, as applicable,  
22 which is attached hereto and incorporated herein by reference.

23 **ARTICLE XXXIV NOTIFICATION**

24 All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes  
25 thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage  
26 prepaid, and addressed to the CONSULTANT Project Manager and COUNTY Contract Administrator at the  
27 respective addresses provided in Article I.B.

28 **ARTICLE XXXV CONTRACT**

- 1 A. The two parties to this Agreement, who are the before named CONSULTANT and the before named  
2 COUNTY, hereby agree that this Agreement constitutes the entire agreement which is made and  
3 concluded in triplicate between the two parties. Both of these parties for and in consideration of the  
4 payments to be made, conditions mentioned, and work to be performed, each agree to diligently perform  
5 in accordance with the terms and conditions of this Agreement as evidenced by the signatures below.
- 6 B. This Agreement may be executed in any number of counterparts, each of which will be an original, but all  
7 of which together will constitute one instrument. Each party to this Agreement agrees to the use of  
8 electronic signatures, such as digital signatures that meet the requirements of the California Uniform  
9 Electronic Transactions Act (“CUETA”) Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this  
10 Agreement. The parties further agree that the electronic signatures of the parties included in this  
11 Agreement are intended to authenticate this writing and to have the same force and effect as manual  
12 signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically  
13 associated with an electronic record and executed or adopted by a person with the intent to sign the  
14 electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an  
15 electronic signature for transactions and contracts among parties in California, including a government  
16 agency. Digital signature means an electronic identifier, created by computer, intended by the party using  
17 it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon  
18 by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as  
19 defined in subdivision (i) of Section 1633.2 of the Civil Code.

20  
21 [SIGNATURE PAGE FOLLOWS]  
22  
23  
24  
25  
26  
27  
28

ARTICLE XXXVI SIGNATURES

COUNTY Signatures


RECOMMENDED FOR APPROVAL:

 Dated: 2/1/2024

PATRICIA ROMO  
Director of Transportation

APPROVED AS TO FORM:

County Counsel

 Dated: \_\_\_\_\_

By Deputy

APPROVAL BY THE BOARD OF SUPERVISORS

 Dated: 2/06/2024

CHUCK WASHINGTON  
PRINTED NAME  
Chair, Riverside County Board of Supervisors

ATTEST:

 Dated: 2/16/2024  
Deputy

KIMBERLY A. RECTOR  
Clerk of the Board (SEAL)

Consulting Services Agreement

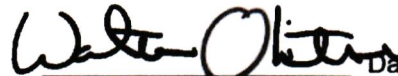
CONSULTANT Signatures

CONSULTANT: KOA

 Dated: 1/30/2024

Printed Name Michael Nilsson  
Title Principal, Director of Planning

CONSULTANT: KOA

 Dated: 1/30/2024

Printed Name Walter Okitsu  
Title Principal

**ATTACHMENT A • SCOPE OF SERVICES**

**ARTICLE AI • INTRODUCTION**

**A. DESCRIPTION**

CONSULTANT shall provide professional transportation planning, engineering, and public engagement services in order to develop the Desert Edge Mobility Plan (Plan). The Plan will serve as a master plan and policy document to guide development and maintenance of active transportation infrastructure, including sidewalks, multiuse trails and bikeways, and Safe Routes to School programs for the unincorporated area of Desert Edge. It is anticipated that State and Local funding will be used for development of the Plan.

All work performed by CONSULTANT will be per applicable COUNTY, American Association of State Highway and Transportation Officials (AASHTO), and Caltrans standard practices, regulations, policies, procedures, manuals and standards, as appropriate, and may also include compliance with Federal Highway Administration requirements.

**B. LOCATION**

The Plan is located in the unincorporated community of Desert Edge, located in the Coachella Valley in eastern Riverside County.

**C. COORDINATION**

CONSULTANT shall coordinate with other involved agencies for compatible design and phasing of construction with existing conditions.

**D. STANDARDS**

Documents shall be prepared in accordance with current State Department of Transportation (CALTRANS) regulations, policies, procedures, manuals and standards including compliance with Federal Highway Administration (FHWA) requirements and/or County Road Standards as appropriate. Improvements of local roads may be prepared in accordance with COUNTY standards in lieu of CALTRANS standards as directed by the COUNTY's Contract Administrator. CONSULTANT will prepare fact sheets for COUNTY approval, documenting the exceptions to mandatory and advisory design standards. All documents shall be prepared using English Standard Units and dimensions.

**1. Environmental**

1 Environmental documents and services shall be performed in accordance with CALTRANS Standard  
2 Environmental Reference (SER) including requirements of the California Environmental Quality Act  
3 (CEQA)

4 and the National Environmental Policy Act (NEPA) if a project has a Federal nexus.

5 **2. Survey**

6 Supplemental surveys shall be performed by the CONSULTANT in accordance with the current  
7 CALTRANS "Survey Manual" and its revisions. Work not covered by the manual shall be performed in  
8 accordance with accepted professional surveying standards as approved by COUNTY.

9 **3. Design**

10 Roadway design shall be in accordance with the current CALTRANS Highway Design Manual and its  
11 revisions and/or County Road Standards as appropriate. Traffic design shall be in accordance with the  
12 Manual of Uniform Traffic Control Devices (MUTCD) and the California Supplement. Basic design shall  
13 be in accordance with the approved Technical Report and final Environmental Document including any  
14 supplements and/or updates. MicroStation (compatible with current CALTRANS version) software will be  
15 used as the design software.

16 **4. Geographical Information System (GIS)**

17 a. "GIS Information" shall include GIS digital files (including the information or data contained therein) and  
18 any other information, data, or documentation from COUNTY GIS (regardless of medium or format) that is  
19 provided pursuant to this Agreement.

20 b. CONSULTANT acknowledges that the unauthorized use, transfer, assignment, sublicensing, or  
21 disclosure of the GIS information, documentation, or copies thereof will substantially diminish their value  
22 to COUNTY. CONSULTANT acknowledges and agrees that COUNTY GIS information is a valuable  
23 proprietary product, embodying substantial creative efforts, trade secrets, and confidential information  
24 and ideas. COUNTY GIS information is and shall remain the sole property of COUNTY; and there is no  
25 intention of COUNTY to transfer ownership of COUNTY GIS information.

26 c. COUNTY GIS information is made available to CONSULTANT solely for use in the normal course of  
27 CONSULTANT's business to produce reports, analysis, maps and other deliverables only for a specific  
28 PROJECT and as described within the Scope of Services.

- 1 d. CONSULTANT agrees to indemnify and hold harmless COUNTY, its officers, employees and agents from  
2 any and all liabilities, claims, actions, losses or damages relating to or arising from CONSULTANT's use  
3 of COUNTY GIS information.
- 4 e. GIS information cannot be used for all purposes; and GIS information may not be complete for all  
5 purposes. Additional investigation or research by CONSULTANT into other sources will be required. GIS  
6 information is intended only as an information base and is not intended to replace any legal records.  
7 COUNTY has used and will continue to use its best efforts to correctly input into COUNTY GIS the  
8 information contained in various legal and other records; but COUNTY accepts no responsibility for any  
9 conflict with actual legal records or for information not transferred from legal records to COUNTY GIS.  
10 COUNTY has attempted to update GIS information as often as is practically feasible. However,  
11 CONSULTANT should be aware that GIS information may not be current and changes or additions to the  
12 information contained in COUNTY GIS may not yet be reflected in COUNTY GIS.
- 13 f. COUNTY accepts no responsibility for the use of GIS information; and COUNTY provides no warranty for  
14 the use of COUNTY GIS or COUNTY GIS information by CONSULTANT. THE WARRANTIES  
15 SPECIFICALLY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES,  
16 EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR  
17 A PARTICULAR PURPOSE; AND SUCH OTHER WARRANTIES ARE HEREBY EXCLUDED.
- 18 g. Final plans, drawings or other work products will be provided in an electronic format suitable for inclusion  
19 within the COUNTY GIS or CADD Systems by CONSULTANT and will contain the appropriate meta data  
20 and will be geographically registered using an appropriate coordinate system such as the California State  
21 Plane Coordinate System NAD 83.

22 **5. Project Files**

23 Project files shall be indexed in accordance with CALTRANS' Project Development Uniform File System.

24 **E. QUALITY CONTROL**

- 25 1. CONSULTANT shall implement and maintain the following quality control procedures during the  
26 preparation of the plans and documents relating to this Agreement. CONSULTANT shall have a quality  
27 control plan in effect during the entire time services are being performed under this Agreement. The plan  
28 shall establish a process whereby calculations are independently checked, plans checked, corrected and

1 back-checked, and all job related correspondence and memoranda routed and received by affected  
2 persons and then bound in appropriate job files. Where several drawings show different work in the same  
3 area, means shall be provided to avoid conflicts and misalignment in both new and existing  
4 improvements. Evidence that the quality control plan is functional may be requested by the COUNTY  
5 Contract Administrator. All plans, calculations documents and other items submitted to the COUNTY  
6 Contract Administrator for review shall be marked clearly as being fully checked and that the preparation  
7 of the material followed the quality control plan established for the work.

8 2. CONSULTANT has total responsibility for the accuracy and completeness of all data, reports, plans,  
9 specifications and estimates prepared for this Agreement and shall check all such material accordingly.  
10 COUNTY will review all work product deliverables. The responsibility for accuracy and completeness of  
11 such items remains solely that of CONSULTANT. Neither COUNTY'S review nor approval shall give rise  
12 to any liability or responsibility on the part of COUNTY, or waive any of COUNTY'S rights, or relieve  
13 CONSULTANT of its professional responsibilities or obligations under this Agreement.

14 3. The plans, designs, estimates, calculations, reports and other documents furnished in accordance with  
15 the Scope of Services shall meet the criteria for acceptance and be a product of neat appearance, well  
16 organized, technically and grammatically correct, checked and having the preparer and checker  
17 identified. The minimum standard of appearance, organization and contents shall be of similar types  
18 produced by COUNTY and AGENCIES. If any work product submitted is not complete and ready for use  
19 by COUNTY, it shall be marked "Draft" or similar designation to indicate it is not ready for use by  
20 COUNTY. COUNTY expects that all work product not so designated is ready for and can be used as a  
21 final product.

22 4. The page identifying preparers of engineering reports, the title sheet for specifications and each sheet of  
23 plans, shall bear the professional seal, certificate number, registration classification, expiration date of the  
24 certificate, and signature of the professional engineer(s) responsible for their preparation.

25 **F. KEY PERSONNEL**

26 The CONSULTANT has represented to the COUNTY that certain key personnel will perform the services and  
27 if one or more of such personnel should become unavailable, CONSULTANT may substitute other personnel  
28 of at least equal competence only after prior written approval by the COUNTY's Contract Administrator has

1 been secured. The key personnel for performance of this Agreement are:

2 <b>Assignment</b>	<b>Key Personnel</b>
3 Principal in Charge	Michael Nilsson
4 Project Manager	Frank Barrera
5 Deputy Project Manager	Monica Paderanga
6 Senior Advisor	Carlos Velasquez
7 Task Lead	Eric Tsay
8 QA/QC Engineer	Walter Okitsu

9 **G. COUNTY RESPONSIBILITIES**

10 The following includes tasks to be completed by the COUNTY:

- 11 • COUNTY will provide standards, existing plans, and manuals when requested by CONSULTANT
- 12 and available to COUNTY personnel.
- 13 • COUNTY will provide survey and land acquisition services generally as described below:
  - 14 - Provide survey controls.
  - 15 - Verify that County survey control points are still in place and undisturbed.
  - 16 - Provide survey records research, including grant deeds and right-of-way documents in
  - 17 support of right-of-way base mapping prepared by COUNTY surveyor.
  - 18 - Prepare existing right-of-way and parcel mapping.
  - 19 - Coordinate permits for right-of-entry with property owners.
  - 20 - Obtain and review title reports, identify easements and encumbrances.
  - 21 - Prepare appraisals for temporary and permanent right-of-way and perform appraisal review.
  - 22 - Perform right-of-way negotiations and acquisitions.
  - 23 - Certify new acquired right-of-way.

24 **ARTICLE AII • CONTRACT ADMINISTRATION**

25 **A. CONTRACT MANAGEMENT**

26 The CONSULTANT's Project Manager will maintain ongoing liaison with the COUNTY's Contract  
27 Administrator and other effected agencies to promote effective coordination during the course of the  
28 PROJECT.



**B. COST ACCOUNTING**

The CONSULTANT will prepare monthly reports of expenditures for the PROJECT by task. Expenditures will include direct labor costs, other direct costs, and subconsultants costs. These reports will be included as supporting data for invoices presented to the COUNTY every month.

**C. SCHEDULING**

Schedules will be prepared for each specific Task Identified below.

**ARTICLE AIII • SERVICES TO BE PROVIDED/SCOPE OF WORK**

The deliverables to the COUNTY by the CONSULTANT are identified below. They are also listed under each associated task. In addition to any requirement as specified in this Agreement, all deliverables will be provided in Acrobat Portable Document Format (pdf):

**TASK 1 - PROJECT INITIATION AND COORDINATION**

**Task 1.1: Project Management**

The CONSULTANT shall lead monthly virtual meetings with COUNTY. The purpose of these meetings is to briefly update COUNTY on the status of the project. The CONSULTANT shall prepare agendas and meeting minutes for each meeting.

**Task 1.2: Project Kick-Off Meeting with COUNTY**

The CONSULTANT shall attend a kick-off virtual meeting with the COUNTY to discuss project management, goals and objectives, and any other relevant information. The Project Kick-Off Meeting will also be an opportunity to discuss any remaining questions, exchange documents, and establish communication and review protocols. The CONSULTANT will prepare minutes after the meetings. This meeting should be held within five working days of the CONSULTANT receiving authorization to commence work on the Plan.

**TASK 1 DELIVERABLES:**

Task #	Deliverable
1.1	Monthly agendas and meeting minutes
1.2	Project Kick-Off Meeting Minutes

**TASK 2 – STAKEHOLDER ENGAGEMENT**

**Task 2.1: Stakeholder Engagement Strategy**

Develop an engagement strategy to identify key stakeholders and identify a diverse range of in-person and online resources for public input on the Desert Edge Mobility Plan, identifying specific strategies to engage disadvantaged community members, including seasonal residents, seniors, linguistically isolated populations, and

1 those with limited internet access.

2 Task 2.2: Project Messaging

3 Develop project branding, project fact sheets and informational flyers on upcoming meetings/deliverables,  
4 using the tools to market the project to disadvantaged community members with limited internet access.

5 Task 2.3: Social Media Messaging and Project Website

6 Provide information for social media messaging on project events and a webpage on County of  
7 Riverside's Transportation Department website that includes background information on the Plan, upcoming  
8 meetings, project deliverables, surveys, and a project timeline.

9 Task 2.4: Project Survey

10 Create an online and paper survey in English and Spanish that allows for community members to provide  
11 feedback on existing walking, biking, and transit access conditions as well as on potential improvements.

12 Task 2.5: Advisory Group Meetings

13 Meet with local and regional organizations (virtually) on a quarterly basis to provide guidance on Plan  
14 tasks and recommendations.

15 Task 2.6: Community Workshops

16 Provide quarterly updates to the Desert Edge Community Council on Mobility Plan progress.

17 Task 2.7: Coordination Meetings

18 Coordinate up to one (1) in-person and two (2) virtual meetings with neighboring jurisdictions and tribal  
19 organizations to ensure the proposed plan elements are consistent with their jurisdiction's efforts.

20 TASK 2 DELIVERABLES:

Task #	Deliverable
2.1	Project Engagement Strategy
2.2	Project Branding, Fact Sheets, & Informational Flyers
2.3	Project Information for Social Media Presence and Project Website
2.4	Online & Paper Survey and Results
2.5	Advisory Meeting Summaries
2.6	Quarterly Updates for Quarterly Community Meetings
2.7	Coordination Meeting Summaries

1 TASK 3 - EXISTING CONDITIONS ANALYSIS

2 Task 3.1: State, Regional, and Local Agency Plan/Policy Review

3 The CONSULTANT will review all relevant state, regional, and local agency planning and policy  
4 documents, including but not limited to: the California's Streets and Highways Code, California Transportation  
5 Plan 2040, Toward an Active California: State Bicycle and Pedestrian Plan, Caltrans District 8 Active  
6 Transportation Plan, SCAG's Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS),  
7 County of Riverside's General Plan Circulation Element, Regional Active Transportation Plans, and local  
8 jurisdiction bicycle and active transportation plans; and other documents pertaining to Complete Streets, Smart  
9 Mobility, and Sustainable Communities planning efforts.

10 Task 3.2: Existing and Planned Infrastructure/Facilities Inventory and Mapping

11 The CONSULTANT will identify and map the existing and planned bicycle and pedestrian, infrastructure,  
12 and facilities throughout the Desert Edge Community, including Class I, II, III, and IV bikeways, sidewalks, multi-  
13 use paths, bicycle storage racks and lockers, crosswalks, ADA ramps, and safe routes to schools. The COUNTY  
14 will provide the CONSULTANT access to related data to prepare existing infrastructure and facilities maps.

15 Task 3.3: Area-Specific Field Investigations

16 The CONSULTANT will compile feedback from public outreach efforts in Task 2 to focus on specific areas  
17 to conduct field reviews. Field investigations may consist of touring existing routes by bicycle or foot, possibly with  
18 COUNTY, or representatives from stakeholder groups. Field reviews will assist with identifying the need for new  
19 linkages, or the need to improve or remove linkages from the currently planned network. Field investigations will  
20 be documented at key locations using field notes, field measurements, and digital photography to identify system  
21 constraints, and record site-specific information, such as level of use/stress, facility condition, and key gaps or  
22 obstacles for traveling by bicycle and foot within the area. The CONSULTANT will also record harsh conditions,  
23 noise, lack of shading, high winds, lack of lighting, lack of amenities, and lack of buffers between vehicles and  
24 bicyclists or pedestrians.

25 Task 3.4: Countywide Origins and Destinations Analysis and Mapping

26 The CONSULTANT will identify key origins and destinations throughout the Desert Edge community. The  
27 CONSULTANT will prepare maps that identify key existing and potential high-volume routes of active  
28 transportation, with points of interest like residential neighborhoods, schools, hospitals, major employers,

1 shopping centers, etc.

2 Task 3.5: Existing Intermodal Connections Inventory and Mapping

3 The CONSULTANT will prepare a map and description of existing transit stops and stations for intermodal  
4 connectivity.

5 Task 3.6: Collision and Safety Analysis and Mapping

6 The CONSULTANT will obtain and map the location of bicycle and pedestrian collision reports from the  
7 Statewide Integrated Traffic Records System (SWITRS). The CONSULTANT will also identify existing bicycle and  
8 pedestrian safety and education programs within the County of Riverside.

9 Task 3.7: Existing Conditions Report

10 The CONSULTANT will document all information and data collected under Tasks 3.1 through 3.6, listed  
11 above, in an Existing Conditions Report. The Existing Conditions Report will provide a comprehensive summary  
12 of tabular and mapped data, and will include, but will not be limited to, the following inputs from previous tasks:

- 13 • Policies relating to bicycle parking in public, private, and under-developed locations
- 14 • Existing and currently planned bicycle facilities
- 15 • Current policies and procedures for maintaining existing and proposed active travel facilities including, but  
16 not limited to, the maintenance of smooth pavement, freedom from encroaching vegetation, maintenance  
17 of traffic control devices including striping and other pavement markings, and lighting
- 18 • Current safety, education, and encouragement programs offered locally by County Sheriff, the California  
19 Highway Patrol, and local school districts
- 20 • Existing coordination with neighboring jurisdictions, communities, school districts, and regional planning  
21 Documents
- 22 • Land uses and key community features
- 23 • Bicycle and pedestrian infrastructure
- 24 • Multimodal connections to and from other modes of transportation, including micro mobility services
- 25 • Existing and currently planned signage and wayfinding
- 26 • Existing and currently planned signage and wayfinding
- 27 • Areas of greatest need, near schools as well as in the community-at-large

28 TASK 3 DELIVERABLES:

Task #	Deliverables
3.1	State, Regional, and Local Agency Plan/Policy Review
3.2	Map, and GIS layer(s)
3.3	Field inventory of key access points, gaps, proposed/potential bicycle barriers, and pedestrian corridors
3.4	Map, and GIS layer(s)
3.5	Map, and GIS layer(s)
3.6	Map, and GIS layer(s)
3.7	Existing Conditions Report

**TASK 4 - USER NEEDS ASSESSMENT**

**Task 4.1: Existing and Future Bicycle and Walking Demands**

The CONSULTANT will develop estimates of current daily bicycle and walking trips using Big Data sources (such as Streetlight Data, Strava Metro, AllTransit). Existing estimates will be used to forecast future cycling and walking demands. Information derived from this analysis will be used to identify specific locations needing improvements, areas for potential targeted awareness campaigns, and funding applications.

**Task 4.2: Safety Needs Analysis**

The CONSULTANT will use the data from Task 3.6, Collision and Safety Analysis and Mapping, and public input from Task 2 to identify specific locations needing improvements, plus possible enhancements in motorist, bicyclist, and pedestrian awareness and educational programs.

**Task 4.3: User Needs Assessment Report**

The CONSULTANT will compile information and data from Tasks 4.1 and 4.2, public meetings and the community survey to evaluate the County of Riverside’s active transportation needs in a User Needs Assessment Report. The key needs identified will be addressed in the Plan.

**TASK 4 DELIVERABLES:**

Task #	Deliverable
4.1	Map, and GIS layer(s)
4.2	Map, and GIS layer(s)
4.3	User Needs Assessment Report

**TASK 5 - POLICY FRAMEWORK AND BEST PRACTICES**

**Task 5.1: Goals, Objectives, Policies, and Performance Measures**

1 The CONSULTANT will develop goals, objectives, policies, and performance metrics for the Plan. This  
2 task will set forth the foundation of the Plan by establishing its context within which proposed projects will be  
3 prioritized for implementation and performance toward plan goals will be monitored. Performance measures will  
4 be quantifiable standards, likely related to demand, mode choice, safety, and health. The performance measures  
5 will be structured to support on-going documentation. This task will incorporate community input to ensure that the  
6 values and needs of the community are reflected in the Plan.

7 Task 5.2: Best Practices – ATP Toolbox

8 The CONSULTANT will develop a menu or Toolbox of best practices for Complete Streets and other  
9 design elements that may be incorporated in future roadway projects, drawing on the Caltrans Complete Streets  
10 Toolbox and Smart Mobility Framework. The ATP Toolbox will be utilized as a reference during the planning and  
11 design phase to ensure proposed improvements are context-sensitive and appropriately applied to the existing  
12 built environments.

13 TASK 5 DELIVERABLES:

Task #	Deliverable
5.1	Goals, Objectives, Policies, and Performance Measures
5.2	ATP Toolbox

16 TASK 6 - PROPOSED ACTIVE TRANSPORTATION NETWORK AND PROGRAM OF PROJECTS

17 The CONSULTANT will work with the Equity Advisory Committee and consider needs of vulnerable  
18 populations, such as students, seniors, and transit users, and connectivity to existing and planned facilities in  
19 adjacent cities for each Program of Projects described below in Task 6.

20 Task 6.1: Proposed Bicycle Program of Projects

21 The CONSULTANT will use the Existing Conditions Report, User Needs Assessment Report, and public  
22 outreach feedback from Task 2 to design and map the proposed future bicycle network, including support facilities  
23 (e.g., bicycle parking, showers, and locker facilities). The CONSULTANT will consider connectivity to existing and  
24 planned facilities in adjacent cities. The CONSULTANT will develop a complete and detailed list of future projects  
25 (Program of Projects) that will be prioritized for implementation (further described under Task 7). Each project will  
26 include a brief project description, including project-specific information and potential constraints, such as right-of-  
27 way acquisition and grades, itemized preliminary cost estimate, and the community plan area and Supervisorial  
28 District in which the project is located. A schematic design overlaid on recent aerial photography will also be  
included. The CONSULTANT will use information from previous tasks and coordinate with the County Traffic

1 Division to determine appropriate locations and the extent of the network and facilities.

2 Task 6.2: Proposed Pedestrian Program of Projects

3 The CONSULTANT will use the Existing Conditions Report, User Needs Assessment Report, and public  
 4 outreach feedback from Task 2 to design and map the proposed future pedestrian network. The CONSULTANT  
 5 will develop a complete and detailed list of future projects (Program of Projects) that will be prioritized for  
 6 implementation (further described under Task 7). Each project will include a brief project description, including  
 7 project-specific information and potential constraints, such as right-of-way acquisition, itemized preliminary cost  
 8 estimate, and the community plan area and Supervisorial District in which the project is located. A schematic  
 9 design overlaid on recent aerial photography will also be included. The CONSULTANT will use information from  
 10 previous tasks and coordinate with Planning & Development and the County Traffic Division to determine  
 11 appropriate locations and the extent of the network and facilities.

12 Task 6.3: Proposed ADA Program of Projects

13 The CONSULTANT will develop a priority list based on the inventory of corners where ADA ramps are  
 14 currently missing, and metrics established by the CONSULTANT and the COUNTY. The CONSULTANT will  
 15 develop a complete list of future projects (Program of Projects) that will be prioritized for implementation (further  
 16 described under Task 7). The CONSULTANT will develop and map a Program of Projects to bring these facilities  
 17 up to current ADA standards.

18 Task 6.4: Safe Routes to Schools Program of Projects

19 The CONSULTANT will identify and map potential improvements to County infrastructure to support Safe  
 20 Routes to Schools throughout the County. This includes development of a complete list of future projects  
 21 (Program of Projects) that will be prioritized for implementation (further described under Task 6). Each project  
 22 listed will include a brief project description, including project specific information and potential constraints, such  
 23 as right-of-way acquisition, itemized preliminary cost estimate, and the community plan area and Supervisorial  
 24 District in which the project is located. The CONSULTANT will include a schematic design overlaid on recent  
 25 aerial photography.

26 TASK 6 DELIVERABLES:

Task #	Deliverable
27 6.1	Program of Projects with Descriptions, Map, and GIS layer(s)
28 6.2	Program of Projects with Descriptions, Map, and GIS layer(s)
6.3	Program of Projects with Descriptions, Map, and GIS layer(s)
6.4	Program of Projects with Descriptions, Map, and GIS layer(s)

TASK 7 - PRIORITIZATION, FUNDING, AND IMPLEMENTATION PLAN

Task 7.1: Project Prioritization

The CONSULTANT will develop criteria to prioritize each Program of Projects developed as part of Tasks 6.1 through 6.4. Projects will be assigned levels of priority to help the COUNTY achieve maximum effectiveness of the bicycle, pedestrian, ADA, and Safe Routes to Schools networks over time. The CONSULTANT will prioritize each Program of Projects using measures such as, cycling and walking demand, barriers/needs, safety issues, and construction feasibility. Criteria for prioritization will be developed in conjunction with COUNTY staff. The CONSULTANT will use the prioritization criteria to develop a short-term (next five years) attainable Program of Projects. The CONSULTSANT will also develop a longer term (next 20 years) Program of Projects that may require formal design, right-of-way acquisition, or other “greater” type of effort or dedication of resources.

Task 7.2: Funding Sources and Strategies

The CONSULTANT will prepare a memorandum to describe past expenditures for bicycle facilities and identify the costs associated with implementation of the Plan, as well as any other future financial needs for maintenance and operation. The CONSULTANT will identify and discuss future funding sources and strategies for obtaining funding.

Task 7.3: Implementation Plan

The CONSULTANT will prepare an Implementation Plan based on the prioritization criteria in Task 7.1, funding availability and requirements, other programmed transportation improvements, eliminating an immediate bottleneck or safety hazard, and connectivity to the countywide active transportation network. The CONSULTANT will develop an Implementation Plan for fundable, high-priority projects and programs over the next five years, along with an unconstrained Implementation Plan for longer term projects for the next 20 years. The CONSULTANT will review all the Program of Projects developed and identify a recommended list of projects most likely to score well for competitive grant programs.

TASK 7 DELIVERABLES:

Task #	Deliverable
7.1	Project prioritization criteria, short-term and long-term Program of Projects
7.2	Memorandum describing potential funding sources and opportunities
7.3	Implementation Plan

TASK 8 – DRAFT PLAN

Task 8.1: Administrative Draft Plan



1 The CONSULTANT will incorporate the Existing Conditions Report, User Needs Assessment Report,  
 2 Implementation Plan, study surveys, maps, policy framework, and coordination with other local plans to compile  
 3 the Administrative Draft Plan document. The Draft Plan should also follow the California Transportation  
 4 Commission's Active Transportation Plan for Disadvantaged Communities Guidance for Plans. The  
 5 CONSULTANT will coordinate with other County departments for input on the document.

6 Task 8.2: Draft Plan

7 Following COUNTY review and comments on the Administrative Draft Plan, the CONSULTANT will revise  
 8 the Administrative Draft Plan as needed and release the Draft Plan for public review and input. The  
 9 CONSULTANT will translate the document into Spanish, upon request.

10 TASK 8 DELIVERABLES:

Task #	Deliverable
8.1	Administrative Draft Plan
8.2	Draft Report Plan for public review

13 TASK 9 - PUBLIC REVIEW, FINAL ATP, AND DECISION-MAKER HEARINGS

14 Task 9.1: Public Hearings

15 The CONSULTANT shall attend up to two (2) in-person public hearings to present the Draft Plan. The  
 16 CONSULTANT will work in conjunction with COUNTY staff to prepare materials for these public hearings. The  
 17 CONSULTANT will document the comments received at the hearing and help answer any comments from the  
 18 commissioners or public.

19 Task 9.2: Final Plan

20 The CONSULTANT will incorporate any changes necessary to the Plan, based on input from the public  
 21 hearings. The CONSULTANT will finalize the document for presentation to the County Board of Supervisors and  
 22 the public.

23 Task 9.3: Decision-Maker Hearings

24 The CONSULTANT will present the Final Plan to decision-makers and the public, and answer questions.  
 25 COUNTY staff will prepare the staff reports, PowerPoint presentations, and public noticing.

26 TASK 9 DELIVERABLES:

Task #	Deliverable
9.1	Attend public hearings and answer/document questions
9.2	Final Plan
9.3	Participate in decision-maker hearings

**ATTACHMENT B • SCHEDULE OF SERVICES**

**ARTICLE BI • INTRODUCTION**

The CONSULTANT shall perform the covenants set forth in Attachment A, Scope of Services, in accordance with the performance requirements of ARTICLE IV PERFORMANCE PERIOD of this Agreement and with the following additional performance requirements. Time is of the essence in this Agreement.

**ARTICLE BII • PERFORMANCE REQUIREMENTS**

**A. PHASES**

This Agreement consists of only one phase.

**B. SCHEUDLE OF SERVICES**

The below details the anticipated sequencing and completion time for the PROJECT:

Phase I.....January 2024 – June 2025

**C. SUBMITTALS**

Where CONSULTANT is required to prepare and submit studies, reports, plans, etc., to COUNTY, these shall be submitted in draft, and the opportunity provided for COUNTY and AGENCIES to offer comments prior to final submission.

**D. TIME EXTENSIONS**

1. Any delay in providing services required by this Agreement occasioned by causes beyond the control and not due to the fault or negligence of CONSULTANT, shall be the reason for granting an extension of time for the completion of the aforesaid work. When such delay occurs, CONSULTANT shall promptly notify COUNTY in writing of the cause and of the extent of the delay whereupon COUNTY shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the work when, in COUNTY's judgment, their findings of fact justify such an extension of time.

2. COUNTY's findings of fact shall be final and conclusive to the parties hereto. However, this is not intended to deny CONSULTANT of any available civil legal remedies in the event of a dispute

**E. FINAL ACCEPTANCE**

When COUNTY determines that CONSULTANT has satisfactorily completed the services, COUNTY may give CONSULTANT a written Notice of Final Acceptance. CONSULTANT shall not incur any further costs hereunder unless so specified in the Notice of Final Acceptance. No payment will be made for any work

1 performed after the Agreement end date as provided in ARTICLE IV PERFORMANCE PERIOD unless  
2 extended by amendment regardless if a Notice of Final Acceptance has been issued or not. The final invoice  
3 shall be submitted within 60 calendar days after completion of CONSULTANT's work as required by ARTICLE  
4 V ALLOWABLE COSTS AND PAYMENTS CONSULTANT may request a Notice of Final Acceptance  
5 determination when, in its opinion, it has satisfactorily completed all covenants as stipulated in this  
6 Agreement.

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**ATTACHMENT C • COMPENSATION PLAN**

**ARTICLE CI • INTRODUCTION**

Satisfactory performance and completion of the services under this Agreement shall be compensated based upon actual costs plus a fixed fee in accordance with ARTICLE V ALLOWABLE COSTS AND PAYMENTS and ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS of this Agreement.

**ARTICLE CII • ELEMENTS OF COMPENSATION**

Compensation for the services provided will be comprised of the following elements: DIRECT LABOR COSTS, FIXED FEE, OTHER DIRECT COSTS and OUTSIDE SERVICES.

**A. DIRECT LABOR COSTS**

Direct Labor Costs shall be paid in an amount equal to the Direct Salary Costs plus the product of the Direct Salary Costs and the Multiplier which are defined as follows:

1. Direct Salary Costs

Direct Salary Costs are the base salaries and wages actually paid to the CONSULTANT's personnel directly engaged in performance of the services under the Agreement. Salary rates for specific employees shall be provided on billing rates provided in the cost proposal worksheets attached hereto.

2. Multiplier

The Multiplier to be applied to the Direct Salary Costs to determine the Direct Labor Costs is the sum of the following components:

PARYROLL ADDITIVES.....0%

The decimal ratio of Payroll Additives to Direct Salary Costs. Payroll Additives include all employee benefits, allowances for vacation, sick leave, and holidays, and company portion of employee insurance and social and retirement benefits, all federal and state payroll taxes, premiums for insurance which are measured by payroll costs, and other contributions and benefits imposed by applicable laws and regulations.

OVERHEAD COSTS.....149.57%

The decimal ratio of allowable Overhead Costs to CONSULTANT firm's total Direct Salary Costs. Allowable Overhead Costs include general, administrative and overhead costs of maintaining and

operating established offices, and consistent with established firm polies, and as defined in the Federal Acquisitions Regulations, Part 31.2.

TOTAL MULTIPLIER.....149.57%

(sum of Payroll Additives and Overhead Costs)

**B. FIXED FEE**

1. The total Fixed Fee payable to the CONSULTANT is **\$20,033.13**.
2. A pro-rata share of the Fixed Fee shall be included on each monthly invoice.

**B. OTHER DIRECT COSTS**

Other Direct Costs, directly identifiable to the performance of the services of this Agreement, shall be reimbursed at the rates below, or at actual invoiced cost. Travel by air and/or travel in excess of 100 miles from CONSULTANT's office nearest to the COUNTY's office must have COUNTY's prior written approval to be reimbursed under this Agreement.

Rates for identified Other Direct Expenses are as follows:

Item	Rate	Unit	Budget
Travel	\$4,000	LS	\$4,000
Printing	\$625	LS	\$625

**C. OUTSIDE SERVICES**

Outside Services shall be paid in accordance with the cost proposal worksheets approved for each Subconsultant. Billings for Outside Services shall be submitted along with the CONSULTANT's monthly progress billing submittals and shall be in conformance with the COUNTY Consulting Services Manual invoicing procedures.

**ARTICLE CIII • INVOICING**

CONSULTANT shall submit invoices in accordance with the ARTICLE V ALLOWABLE COSTS AND PAYMENTS of this Agreement, the COUNTY's Consulting Services Manual and with the following requirements.

1. Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by the COUNTY Contract Administrator.
2. Billings for direct labor, other direct expenses, outside services and a pro-rata share of the fixed fee

1 shall be included in CONSULTANT's monthly invoice submittals and be in conformance with the  
2 COUNTY's Consulting Services Invoicing Procedures.

- 3 3. The charges for each individual assigned under this Agreement shall be listed separately.  
4 4. Charges for Direct Costs shall be accompanied by substantiating documentation such as invoices,  
5 telephone logs, etc.  
6 5. Each invoice shall bear a certification signed by the CONSULTANT Project Manager or an officer of  
7 the firm which reads as follows:

8 I hereby certify that the hours and salary rates charged in this invoice are the actual hours and  
9 rates worked and paid to the employees listed.

10 **ARTICLE CIV • DIRECT SALARY RATES**

11 Billing rates are subject to the following:

12 **A. PREMIUM OVERTIME**

13 Direct Salary Costs shall be applicable to both straight time and overtime work unless payment of  
14 premium for overtime work is required by law, regulation or craft agreement, or is otherwise specified in  
15 the Consulting Services Contract. In such event, the premium portion of the Direct Salary Costs will not  
16 be subject to the Multiplier.

17 **B. SALARY RATES**

18 Salary rates shown herein are in effect for the duration of the Agreement.

19 **POSITION OR CLASSIFICATION MAXIMUM HOURLY RATES**

20	Principal-in-Charge	\$95.72 per hour
21	Project Manager	\$73.23 per hour
22	Senior Engineer / QA-QC	\$97.94 per hour
23	Senior Engineer / Senior Advisor	\$85.43 per hour
24	Project Designer	\$53.04 per hour
25	Senior Associate Engineer	\$60.02 per hour
26	Engineering Associate 1	\$42.61 per hour
27	Deputy Project Manager	\$48.28 per hour
28	Planner II	\$50.20 per hour

Planner I

\$39.15 per hour

The above rates are for CONSULTANT only. All rates for subconsultants to CONSULTASNT will be in accordance with the subconsultants approved cost proposal.

**ARTICLE CV • PAYMENT**

Progress payments shall be made in accordance with ARTICLE V ALLOWABLE COSTS AND PAYMENTS of this Agreement.

**ARTICLE CVI • COST PROPOSAL**

The following cost proposal worksheets reflect the negotiated targeted contract amounts. The cost proposal will serve as a guideline and reference document during the execution of this Agreement. The total amount of the Agreement is not to exceed \$249,999.35. Reimbursement is to be made at actual cost plus fixed fee; however, billing shall not exceed the rates provided above.





- 1 c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations  
2 either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub-  
3 agreement, including procurements of materials or leases of equipment, each potential sub-applicant or  
4 supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and  
5 the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.
- 6 d. Information and Reports: CONSULTANT shall provide all information and reports required by the  
7 REGULATIONS, or directives issued pursuant thereto, and shall permit access to its books, records,  
8 accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to  
9 be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information  
10 required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this  
11 information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what  
12 efforts CONSULTANT has made to obtain the information.
- 13 e. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination  
14 provisions of this Agreement, the recipient shall impose such agreement sanctions as it or the FHWA may  
15 determine to be appropriate, including, but not limited to:
- 16 i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time,  
17 not to exceed 90 days; and/or
- 18 ii. cancellation, termination or suspension of the Agreement, in whole or in part.
- 19 f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in  
20 every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the  
21 REGULATIONS, or directives issued pursuant thereto.

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

28  
29 **CLAUSE B: CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

1 The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or  
2 improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance  
3 4:

4  
5 **NOW THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that  
6 the recipient will accept title to the lands and maintain the project constructed thereon in accordance with Title  
7 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures  
8 prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all  
9 requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A,  
10 Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of  
11 Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat.  
12 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all  
13 the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A  
14 attached hereto and made a part hereof.

15  
16 **(HABENDUM CLAUSE)**

17 **TO HAVE AND TO HOLD** said lands and interests therein unto the recipient and its successors forever, subject,  
18 however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will  
19 remain in effect for the period during which the real property or structures are used for a purpose for which  
20 Federal financial assistance is extended or for another purpose involving the provision of similar services or  
21 benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the  
22 conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with  
23 the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national  
24 origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination  
25 with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2)  
26 that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with  
27 all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of  
28 Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs  
29 of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said

1 Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above- mentioned  
2 non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on  
3 said lands, and that above described land and facilities will thereon revert to and vest in and become the  
4 absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this  
5 instruction].\*

6  
7 (\*Reverter clause and related language to be used only when it is determined that such a clause is necessary  
8 in order to make clear the purpose of Title VI.)

9  
10 **CLAUSE C: CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE**  
11 **ACTIVITY, FACILITY, OR PROGRAM**

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

14 A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal  
15 representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby  
16 covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

17 1. In the event facilities are constructed, maintained, or otherwise operated on the property described  
18 in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of  
19 Transportation activity, facility, or program is extended or for another purpose involving the  
20 provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain  
21 and operate such facilities and services in compliance with all requirements imposed by the Acts  
22 and Regulations (as may be amended) such that no person on the grounds of race, color, or  
23 national origin, will be excluded from participation in, denied the benefits of, or be otherwise  
24 subjected to discrimination in the use of said facilities.

25 B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination  
26 covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-  
27 enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit,  
28 etc.) had never been made or issued.\*

29 C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the

1 recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described  
2 lands and facilities will there upon revert to and vest in and become the absolute property of the recipient  
3 and its assigns.\*

4 (\*Reverter clause and related language to be used only when it is determined that such a clause is  
5 necessary to make clear the purpose of Title VI.)  
6

7 **CLAUSE D: CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE**  
8 **ACTIVITY, FACILITY OR PROGRAM**

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

- 11 A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal  
12 representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby  
13 covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1)  
14 no person on the ground of race, color, or national origin, will be excluded from participation in, denied the  
15 benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the  
16 construction of any improvements on, over, or under such land, and the furnishings of services thereon,  
17 no person on the ground of race, color, or national origin, will be excluded from participation in, denied the  
18 benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee,  
19 etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts  
20 and Regulations, as amended, set forth in this Assurance.
- 21 B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above  
22 Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as  
23 appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same  
24 as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- 25 C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the  
26 recipient will there upon revert to and vest in and become the absolute property of the recipient and its  
27 assigns.  
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29

1 **CLAUSE E:**

2 During the performance of this Agreement, the CONSULTANT, for itself, its assignees, and successors in interest  
3 (hereinafter referred to as the "CONSULTANT") agrees to comply with the following nondiscrimination statutes and  
4 authorities, including, but not limited to:

5 **Pertinent Non-Discrimination Authorities:**

- 6 • Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on  
7 the basis of race, color, national origin); and 49 CFR Part 21.
- 8 • The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601),  
9 (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal  
10 or Federal-aid programs and projects);
- 11 • Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- 12 • Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits  
13 discrimination on the basis of disability); and 49 CR Part 27;
- 14 • The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on  
15 the basis of age);
- 16 • Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits  
17 discrimination based on race, creed, color, national origin, or sex);
- 18 • The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability  
19 of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the  
20 Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of  
21 the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such  
22 programs or activities are Federally funded or not);
- 23 • Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability  
24 in the operation of public entities, public and private transportation systems, places of public  
25 accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department  
26 of Transportation regulations 49 C.F.R. parts 37 and 38;
- 27 • The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits  
28 discrimination on the basis of race, color, national origin, and sex);
- 29 • Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-

1 Income Populations, which ensures discrimination against minority populations by discouraging programs,  
2 policies, and activities with disproportionately high and adverse human health or environmental effects on  
3 minority and low-income populations;

- 4 • Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and  
5 resulting agency guidance, national origin discrimination includes discrimination because of Limited English  
6 Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP  
7 persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- 8 • Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating  
9 because of sex in education programs or activities (20 U.S.C.1681 et seq).