

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



ITEM: 3.35  
(ID # 25176)

**MEETING DATE:**  
Tuesday, September 10, 2024

**FROM :** TLMA-TRANSPORTATION

**SUBJECT:** TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:  
Approval of the On-Call Services Agreement between the County of Riverside and SYRUSA Engineering, Inc. for Construction Management and Inspection Services for FY 24/25 – 28/29. All Districts. [\$5,000,000 Total Cost – Capital Funds and Deposit-Based Fees 100%]

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

1. Approve the On-Call Services Agreement between the County of Riverside and SYRUSA Engineering, Inc., for Construction Management and Inspection Services for Fiscal Years 24/25 – 28/29 and authorize the Chairman of the Board to execute the same; and
2. Authorize the Director of Transportation to approve a no-cost time extension to complete ongoing tasks for Fiscal Years 29/30 – 30/31, as provided for in the agreement and approved as to form by County Counsel.

**ACTION:Policy**

  
Dennis Acuna, Director of Transportation 8/27/2024

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Gutierrez, seconded by Supervisor Perez 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: September 10, 2024  
xc: Trans.

Kimberly A. Rector  
Clerk of the Board

By:   
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>	\$ 1,000,000	\$1,000,000	\$ 5,000,000	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> Capital Funds and Deposit Based Fees (100%) There are no General Funds used on this project.			<b>Budget Adjustment:</b>	N/A
			<b>For Fiscal Year:</b>	24/25-28/29

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

**BACKGROUND:**

**Summary**

The County of Riverside Transportation Department (County) requires outside construction management and support services to deliver numerous road improvement projects identified and funded in the Transportation Improvement Program (TIP) and to meet the demands of the development community.

The County issued a Request for Qualifications in compliance with the California Department of Transportation (Caltrans) Local Assistance Procedures Manual. Twenty-two (22) firms submitted statement of qualifications (SOQs). The SOQs were reviewed by the selection committee, and a shortlist of the top ten (10) qualified firms was established. The qualified firms on the shortlist were interviewed, and the top five (5) ranked firms were selected for providing on-call engineering services.

SYRUSA Engineering, Inc., was selected as one of the top-ranked firms to provide services on an 'as-needed' basis, with an estimated total amount not to exceed \$5,000,000 for a period of five years. The contract and rates for services were developed through negotiations between SYRUSA Engineering, Inc., and the County. This on-call contract includes State requirements to maximize flexibility for use on State-funded projects. Additional contracts with four other engineering firms for on-call services will be presented in a separate agenda item. Entering into contracts with five different firms allows for the greatest flexibility in managing the County's workload.

**Impact on Residents and Businesses**

This on-call contract provides the flexibility needed to engage consultants in providing additional construction management and support services necessary to deliver critical TIP projects and to meet the demands of the development community.

**Additional Fiscal Information**

All associated contract cost will be funded using Deposit Based Fees, Local or State Funds. No General Funds will be used for this contract.

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

<b>Contract Term</b>			<b>Annual Budget</b>
F.Y. 2024/2025			\$1,000,000
F.Y. 2025/2026			\$1,000,000
F.Y. 2026/2027			\$1,000,000
F.Y. 2027/2028			\$1,000,000
F.Y. 2028/2029			\$1,000,000
<b>Total Contract Budget</b>			<b>\$5,000,000</b>

**Contract History and Price Reasonableness**

The Transportation Department has negotiated billing rates with SYRUSA Engineering, Inc. and they are within the range of acceptable industry practices for engineering services.

**ATTACHMENTS:**

On-Call Services Agreement for Construction Management and Inspection with SYRUSA Engineering, Inc.

  
Douglas Cordonez Jr.

  
9/4/2024

  
Aaron Gettis, Chief of Deputy County Counsel 8/28/2024



Contract No.: 24-01-008  
Termination Date: 06/30/2029  
Amount \$5,000,000  
Authorized: [No]  
Federal Funding: [Yes]  
State Funding:

## ON-CALL SERVICES AGREEMENT

for

**CONSTRUCTION MANAGEMENT AND INSPECTION**

between

**County of Riverside • Transportation Department**

and

**SYRUSA Engineering, Inc.**





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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.*

Scope of Services.....A1  
Schedule of Services..... B1  
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1 **ARTICLE I INTRODUCTION**

2 A. This On-Call Services Agreement (hereinafter referred to as "Agreement") is entered into this \_\_\_\_\_ day of  
3 \_\_\_\_\_, 20\_\_\_\_\_, by and between the COUNTY OF RIVERSIDE, a political subdivision of the  
4 State of California, (hereinafter referred to as "COUNTY") and SYRUSA ENGINEERING, INC., a California  
5 corporation, (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 Faisal Zahlout, PE

10 Located at:

11 255 W. Central Ave., Suite 204, Brea, CA 92821

12 The COUNTY Contract Administrator shall be:

13 Mehran Sanati, PE

14 Located at:

15 2950 Washington Street, Riverside, CA 92504

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. During the term of this  
24 Agreement and for one (1) year thereafter, CONSULTANT shall not solicit or encourage any employee,  
25 vendor, or independent contractor of COUNTY to leave or terminate their relationship with COUNTY for any  
26 reason.

27 E. COUNTY is not required to make any deductions or withholdings from the compensation payable to  
28 CONSULTANT under the provisions of the Agreement and is not required to issue W-2 Forms for income and  
29 employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the

1 performance of its obligations hereunder, is only subject to the control or direction of the COUNTY as to the  
2 designation of tasks to be performed and the results to be accomplished.

3 F. Any third-party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction,  
4 supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds COUNTY harmless  
5 from any and all claims that may be made against COUNTY based upon any contention by any third party  
6 that an employer-employee relationship exists by reason of this Agreement.

7 G. Without the written consent of COUNTY, this Agreement is not assignable or transferable by CONSULTANT  
8 either in whole or in part. Except as expressly authorized herein, CONSULTANT shall not subcontract any  
9 work, without the prior written approval of the COUNTY.

10 H. CONSULTANT shall be as fully responsible to the COUNTY for the acts and omissions of its contractors and  
11 subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same  
12 manner as persons directly employed by CONSULTANT.

13 I. No alteration or variation of the terms of this Agreement shall be valid, unless made in writing and signed by  
14 the authorized representatives of both parties; and no oral understanding or agreement not incorporated  
15 herein, shall be binding on any of the parties hereto.

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

19 K. COUNTY is designated as the lead agency for each project set forth in each Task Order and is working  
20 cooperatively with other agencies in the effort to complete the projects.

21 L. Other public agencies that may be involved with the projects including, but not limited to cooperative, funding,  
22 reviewing, regulatory or operating agencies are listed below and will hereinafter be collectively referred to as  
23 the "AGENCIES":

- 24 • California Department of Transportation (CALTRANS)
- 25 • Cities Departments of Transportation

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

27 A. To ensure understanding and performance of the Agreement objectives, meetings between COUNTY,  
28 AGENCIES, and CONSULTANT shall be held as often as deemed necessary (typically at least monthly). All  
29 work objectives, CONSULTANT's work schedule, the terms of the Agreement and any other related issues



1 will be discussed and/or resolved. CONSULTANT shall keep minutes of meetings and distribute copies of  
2 minutes as appropriate. Progress reporting shall conform with the contract administration requirements of the  
3 COUNTY's Consulting Services Manual including providing updated copies of the following documents at  
4 each project coordination meeting:

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

11 B. CONSULTANT shall submit progress reports on each specific project in accordance with the Task Order.  
12 These reports shall be submitted at least once a month. The report should be sufficiently detailed for the  
13 COUNTY Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on  
14 schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special  
15 problems encountered, so remedies can be developed.

16 C. CONSULTANT Project Manager shall meet with COUNTY Contract Administrator, as needed, to discuss  
17 progress on the project(s).

18 **ARTICLE III STATEMENT OF WORK**

19 CONSULTANT shall furnish all technical and professional services including labor, material, equipment,  
20 transportation, supervision, and expertise to fully and adequately perform and complete the covenants set forth in  
21 Attachment A, Scope of Services, which is attached hereto and incorporated herein by reference and in any Task  
22 Order executed under the authority of this Agreement.

23 **ARTICLE IV PERFORMANCE PERIOD**

24 A. This Agreement shall go into effect upon the *execution of this Agreement by both parties*, and CONSULTANT  
25 shall commence work after written notification to proceed by COUNTY Contract Administrator. The  
26 Agreement shall end on *June 30, 2029*, unless extended by a written amendment signed by the authorized  
27 representatives of both parties.

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

1 C. The period of performance for each specific project shall be in accordance with the Task Order for that project  
2 and Attachment B, Schedule of Services, which is attached hereto and incorporated herein by reference. If  
3 work on a Task Order is in progress on the expiration date of this Agreement, the period of performance of  
4 this Agreement shall be extended by a written amendment signed by the authorized representatives of both  
5 parties prior to the expiration of the period of performance to cover the time needed to complete the Task  
6 Order in progress only. An amendment extending the period of performance of this Agreement to cover the  
7 time needed to complete a Task Order in progress may be signed by the Director of Transportation if  
8 authorized by the COUNTY Board of Supervisors.

9 **ARTICLE V ALLOWABLE COSTS AND PAYMENTS**

10 A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's  
11 approved Compensation Plan set forth in Attachment C, Compensation Plan, which is attached hereto and  
12 incorporated herein by reference. The specified hourly rates shall include direct salary costs, employee  
13 benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the  
14 period of performance set forth in this Agreement.

15 B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are  
16 in the approved Compensation Plan and identified in the executed Task Order.

17 C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.

18 D. After a project to be performed under this Agreement is identified by COUNTY, COUNTY will prepare a draft  
19 Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results,  
20 project deliverables, period of performance, project schedule and will designate the COUNTY Contract  
21 Administrator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return  
22 the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of  
23 the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee  
24 if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the  
25 finalized Task Order shall be signed by the authorized representatives of both COUNTY and CONSULTANT.  
26 Task Orders may be executed by the Director of Transportation if authorized by the COUNTY Board of  
27 Supervisors.

28 E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both  
29 of which must be based on the labor and other rates set forth in CONSULTANT's approved Compensation



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

5 F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the  
6 approved Compensation Plan. CONSULTANT will be responsible for transportation and subsistence costs in  
7 excess of State rates.

8 G. When milestone cost estimates are included in the approved Compensation Plan, CONSULTANT shall obtain  
9 prior written approval in the form of a written amendment signed by the authorized representatives of both  
10 parties for a revised milestone cost estimate from the COUNTY Contract Administrator before exceeding such  
11 estimate.

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

14 I. CONSULTANT shall not commence performance of work or services until this Agreement has been approved  
15 by COUNTY and notification to proceed has been issued by COUNTY Contract Administrator. No payment  
16 will be made prior to approval or for any work performed prior to approval of this Agreement.

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

20 K. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by COUNTY  
21 Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for  
22 all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days  
23 after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order.  
24 Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall  
25 follow the format stipulated for the approved Compensation Plan using the Project-Specific & Multi-Phase  
26 Contract Invoice Templates provided in the COUNTY Consulting Services Manual and shall reference this  
27 Agreement number, project title and Task Order number. Credits due COUNTY that include any equipment  
28 purchased under the provisions of Article XI Equipment Purchase and Other Capital Expenditures, must be  
29 reimbursed by CONSULTANT prior to the expiration or termination of this Agreement. Final invoice must

1 contain the final cost and all credits due COUNTY including any equipment purchased under the provisions of  
2 Article XI Equipment Purchase and Other Capital Expenditures of this Agreement. The final invoice shall be  
3 submitted within sixty (60) calendar days after completion of CONSULTANT's work. **Final invoices not**  
4 **submitted within sixty (60) calendar days after completion of CONSULTANT's work will not be paid.**

5 Invoices shall be mailed to COUNTY Contract Administrator at the address provided in Article I, paragraph B.

6 L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order and  
7 Attachment B, Schedule of Services. No Task Order will be written which extends beyond the expiration date  
8 of this Agreement.

9 M. The total amount payable by COUNTY for an individual Task Order shall not exceed the amount agreed to in  
10 the Task Order, unless authorized by a written amendment signed by the authorized representatives of both  
11 parties.

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

14 O. Task Orders may not be used to amend the language (or the terms) of this Agreement nor to exceed the  
15 scope of services under this Agreement.

16 P. The total amount payable by COUNTY for all Task Orders resulting from this Agreement shall not exceed  
17 \$5,000,000. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar  
18 amount will be authorized under this Agreement through Task Orders.

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

20 Federal funds:  are included  are not included

21 State funds:  are included  are not included

22 **ARTICLE VI TERMINATION**

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

29 B. COUNTY may temporarily suspend this Agreement, at no additional cost to COUNTY, provided that



1 CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary  
2 suspension. If COUNTY gives such notice of temporary suspension, CONSULTANT shall immediately  
3 suspend its activities under this Agreement. A temporary suspension may be issued concurrent with the  
4 notice of termination.

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

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

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

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

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

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

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

21 The CONSULTANT, subconsultants, and COUNTY shall maintain and make available for inspection all books,  
22 documents, papers, accounting records, independent CPA Audited Indirect Cost Rate workpapers, and other  
23 evidence pertaining to the performance of the Agreement including, but not limited to, the costs of administering  
24 the Agreement. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and  
25 materials available at their respective offices at all reasonable times during the Agreement period and for three (3)  
26 years from the date of final payment under the Agreement and records for real property and equipment acquired  
27 with federal funds must be retained for three (3) years after final disposition. COUNTY, Caltrans Auditor, FHWA,  
28 or any duly authorized representative of the federal government having jurisdiction under federal laws or  
29 regulations (including the basis of federal funding in whole or in part) shall have access to any books, records,

1 and documents of the CONSULTANT, subconsultants, and the CONSULTANT's Independent CPA, that are  
2 pertinent to the Agreement for audits, examinations, workpaper review, excerpts, and transactions, and copies  
3 thereof shall be furnished if requested without limitation.

4 **ARTICLE IX AUDIT REVIEW PROCEDURES**

5 A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not  
6 disposed of by agreement, shall be reviewed by COUNTY's Chief Financial Officer.

7 B. Not later than thirty (30) days after issuance of the final audit report, CONSULTANT may request a review by  
8 COUNTY's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in  
9 writing.

10 C. Neither the pendency of a dispute nor its consideration by COUNTY will excuse CONSULTANT from full and  
11 timely performance, in accordance with the terms of this Agreement.

12 D. CONSULTANT and subconsultant agreements, including Cost Proposals and Indirect Cost Rates (ICR), may  
13 be subject to audits or reviews such as, but not limited to, an agreement audit, an incurred cost audit, an ICR  
14 Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, Cost Proposal  
15 and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR 31 and  
16 other related laws and regulations. In the instances of a CPA ICR audit work paper review, it is  
17 CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to  
18 the CPA's work papers including making copies as necessary. The Agreement, Cost Proposal, and ICR shall  
19 be adjusted by CONSULTANT and approved by COUNTY Contract Administrator to conform to the audit or  
20 review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report  
21 shall be incorporated into the Agreement by this reference if directed by COUNTY at its sole discretion.  
22 Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal,  
23 state, or local governments have access to CPA work papers, will be considered a breach of Agreement  
24 terms and cause for termination of this Agreement and disallowance of prior reimbursed costs.

25 E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the  
26 Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit  
27 and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and  
28 approved by the COUNTY Contract Administrator to conform to the Work Paper Review recommendations  
29 included in the management letter or audit recommendations included in the audit report. Refusal by the



1 CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter  
2 or audit recommendations included in the audit report will be considered a breach of the Agreement terms  
3 and cause for termination of the Agreement and disallowance of prior reimbursed costs.

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

- 13 a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed  
14 will be ninety percent (90%) of the proposed rate.
- 15 b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent  
16 (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
- 17 c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be  
18 seventy-five percent (75%) of the proposed rate.

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

23 3. If the CONSULTANT fails to comply with the provisions of this Article IX.E, or if IOAI is still unable to issue  
24 a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost  
25 reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR  
26 and set forth in Article IX.E.1. above for all rendered services. In this event, this accepted ICR will  
27 become the actual and final ICR for reimbursement purposes under this Agreement.

28 4. CONSULTANT may submit to COUNTY final invoice only when all of the following items have occurred:  
29 (1) IOAI accepts or rejects the original or revised independent CPA audited ICR; (2) all work under this



1 Agreement has been completed to the satisfaction of COUNTY; and (3) IOAI has issued its final ICR  
2 review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO COUNTY no later than sixty  
3 (60) days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and  
4 all other agreements executed between COUNTY and the CONSULTANT, either as a prime or  
5 subconsultant, with the same fiscal period ICR.

6 **ARTICLE X SUBCONTRACTING**

7 A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between COUNTY  
8 and any subconsultant(s), and no sub agreement shall relieve CONSULTANT of its responsibilities and  
9 obligations hereunder. CONSULTANT agrees to be as fully responsible to COUNTY for the acts and  
10 omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is  
11 for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to  
12 pay its subconsultant(s) is an independent obligation from COUNTY's obligation to make payments to the  
13 CONSULTANT.

14 B. CONSULTANT shall perform the work contemplated with resources available within its own organization and  
15 no portion of the work shall be subcontracted without written authorization by COUNTY Contract  
16 Administrator, except that which is expressly identified in the CONSULTANT's Cost Proposal.

17 C. Any sub agreement entered into as a result of this Agreement, shall contain all the provisions stipulated in this  
18 entire Agreement to be applicable to subconsultants unless otherwise noted.

19 D. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made  
20 to CONSULTANT by COUNTY.

21 E. Any substitution of subconsultants must be approved in writing by COUNTY Contract Administrator in  
22 advance of assigning work to a substitute subconsultant.

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

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

28 B. For purchase of any item, service or consulting work not covered in CONSULTANT's approved Cost Proposal  
29 and exceeding five thousand dollars (\$5,000), with prior authorization by COUNTY Contract Administrator,

1 three competitive quotations must be submitted with the request, or the absence of quotations must be  
2 adequately justified.

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

- 4 1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is  
5 defined as having a useful life of at least two years and an acquisition cost of five thousand dollars  
6 (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, COUNTY shall  
7 receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated,  
8 CONSULTANT may either keep the equipment and credit COUNTY in an amount equal to its fair market  
9 value or sell such equipment at the best price obtainable at a public or private sale, in accordance with  
10 established COUNTY procedures; and credit COUNTY in an amount equal to the sales price. If  
11 CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's  
12 expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be  
13 obtained from an appraiser mutually agreeable to by COUNTY and CONSULTANT, if it is determined to  
14 sell the equipment, the terms and conditions of such sale must be approved in advance by COUNTY.
- 15 2. Regulation 2 CFR 200 requires a credit to federal funds when participating equipment with a fair market  
16 value greater than five thousand dollars (\$5,000) is credited to the project.

17 **ARTICLE XII STATE PREVAILING WAGE RATES**

- 18 A. No CONSULTANT or subconsultant may be awarded an agreement containing public work elements unless  
19 registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration  
20 with DIR must be maintained throughout the entire term of this Agreement, including any subsequent  
21 amendments.
- 22 B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring  
23 the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under  
24 this Agreement are available and on file with the Department of Transportation's Regional/District Labor  
25 Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made  
26 a specific part of this Agreement by reference pursuant to Labor Code §1773.2 and will be applicable to work  
27 performed at a construction project site. Prevailing wages will be applicable to all inspection work performed  
28 at COUNTY construction sites, at COUNTY facilities and at off-site locations that are set up by the  
29 construction contractor or one of its subcontractors solely and specifically to serve COUNTY projects.



1 Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and  
2 commercial materials suppliers that provide goods and services to the general public.

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

5 D. Payroll Records

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

- 13 a. The information contained in the payroll record is true and correct.
- 14 b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for  
15 any work performed by his or her employees on the public works project.

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

- 21 a. A certified copy of an employee's payroll record shall be made available for inspection or furnished  
22 to the employee or the employee's authorized representative on request.
- 23 b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available  
24 for inspection or furnished upon request to a representative of COUNTY, the Division of Labor  
25 Standards Enforcement, and the Division of Apprenticeship Standards of the Department of  
26 Industrial Relations. Certified payrolls submitted to COUNTY, the Division of Labor Standards  
27 Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by  
28 the CONSULTANT.
- 29 c. The public shall not be given access to certified payroll records by the CONSULTANT. The



1 CONSULTANT is required to forward any requests for certified payrolls to the COUNTY Contract  
2 Administrator by both email and regular mail on the business day following receipt of the request.

- 3 3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to  
4 the entity that requested the records within ten (10) calendar days after receipt of a written request.
- 5 4. Any copy of records made available for inspection as copies and furnished upon request to the public or  
6 any public agency by COUNTY shall be marked or obliterated in such a manner as to prevent disclosure  
7 of each individual's name, address, and social security number. The name and address of the  
8 CONSULTANT or subconsultant performing the work shall not be marked or obliterated.
- 9 5. The CONSULTANT shall inform COUNTY of the location of the records enumerated under paragraph (1)  
10 above, including the street address, city, and county, and shall, within five (5) working days, provide a  
11 notice of a change of location and address.
- 12 6. The CONSULTANT or subconsultant shall have ten (10) calendar days in which to comply subsequent to  
13 receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the  
14 CONSULTANT or subconsultant fails to comply within the ten (10) day period, he or she shall, as a  
15 penalty to COUNTY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each  
16 worker, until strict compliance is effectuated. Such penalties shall be withheld by COUNTY from  
17 payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to  
18 the failure of a subconsultant to comply with this section.

19 E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified  
20 payroll requirements. Invoice payment will not be made until the invoice is approved by the COUNTY  
21 Contract Administrator.

22 F. Penalty

- 23 1. The CONSULTANT and any of its subconsultants shall comply with Labor Code §1774 and §1775.  
24 Pursuant to Labor Code §1775, the CONSULTANT and any subconsultant shall forfeit to the COUNTY a  
25 penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each  
26 worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in  
27 which the worker is employed for any public work done under the Agreement by the CONSULTANT or by  
28 its subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770  
29 to 1780, inclusive.

- 1 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on  
2 consideration of mistake, inadvertence, or neglect of the CONSULTANT or subconsultant in failing to pay  
3 the correct rate of prevailing wages, or the previous record of the CONSULTANT or subconsultant in  
4 meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or  
5 subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to  
6 pay the correct rates of prevailing wages is not excusable if the CONSULTANT or subconsultant had  
7 knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the  
8 appropriate rate, including any escalations that take place during the term of the Agreement.
- 9 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage  
10 rates and the amount paid to each worker for each calendar day or portion thereof for which each worker  
11 was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or  
12 subconsultant.
- 13 4. If a worker employed by a subconsultant on a public works project is not paid the general prevailing per  
14 diem wages by the subconsultant, the prime CONSULTANT of the project is not liable for the penalties  
15 described above unless the prime CONSULTANT had knowledge of that failure of the subconsultant to  
16 pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to  
17 comply with all of the following requirements:
  - 18 a. The Agreement executed between the CONSULTANT and the subconsultant for the performance  
19 of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771,  
20 1775, 1776, 1777.5, 1813, and 1815.
  - 21 b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem  
22 wages by the subconsultant to the employees by periodic review of the certified payroll records of  
23 the subconsultant.
  - 24 c. Upon becoming aware of the subconsultant's failure to pay the specified prevailing rate of wages  
25 to the subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or  
26 rectify the failure, including but not limited to, retaining sufficient funds due the subconsultant for  
27 work performed on the public works project.
  - 28 d. Prior to making final payment to the subconsultant for work performed on the public works project,  
29 the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the subconsultant



1 that the subconsultant had paid the specified general prevailing rate of per diem wages to the  
2 subconsultant's employees on the public works project and any amounts due pursuant to Labor  
3 Code §1813.

- 4 5. Pursuant to Labor Code §1775, COUNTY shall notify the CONSULTANT on a public works project within  
5 fifteen (15) calendar days of receipt of a complaint that a subconsultant has failed to pay workers the  
6 general prevailing rate of per diem wages.
- 7 6. If COUNTY determines that employees of a subconsultant were not paid the general prevailing rate of  
8 per diem wages and if COUNTY did not retain sufficient money under the Agreement to pay those  
9 employees the balance of wages owed under the general prevailing rate of per diem wages, the  
10 CONSULTANT shall withhold an amount of moneys due the subconsultant sufficient to pay those  
11 employees the general prevailing rate of per diem wages if requested by COUNTY.

12 G. Hours of Labor

13 Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the  
14 COUNTY, twenty-five dollars (\$25) for each worker employed in the execution of the Agreement by the  
15 CONSULTANT or any of its subconsultants for each calendar day during which such worker is required or  
16 permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar  
17 week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive,  
18 except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during  
19 any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per  
20 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  
21 provided in §1815.

22 H. Employment of Apprentices

- 23 1. Where either the prime Agreement or the sub agreement exceeds thirty thousand dollars (\$30,000), the  
24 CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of  
25 Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
- 26 2. CONSULTANTs and subconsultants are required to comply with all Labor Code requirements regarding  
27 the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior  
28 to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division  
29 of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding



1 the employment of apprentices and for the specific journey-to- apprentice ratios for the Agreement work.  
2 The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties  
3 are specified in Labor Code §1777.7.

4 **ARTICLE XIII CONFLICT OF INTEREST**

5 A. CONSULTANT shall cause itself, its respective employees, agents, representatives, or independent  
6 contractors and its subconsultants as well as their respective employees, agents, representatives, or  
7 independent contractors to comply with all applicable conflict of interest laws and regulations, including but  
8 not limited to the Political Reform Act and California Government Code section  
9 1090. Furthermore, CONSULTANT shall cause itself, its respective employees, agents, representatives, or  
10 independent contractors and its subconsultants as well as their respective employees, agents,  
11 representatives, or independent contractors to comply with the COUNTY's Conflict of Interest  
12 Code. CONSULTANT further agrees to cause itself, its respective employees, agents, representatives, or  
13 independent contractors to complete any statements of economic interest if required by COUNTY or State  
14 law. Notwithstanding any other provision contained in this Agreement, for a breach or violation of this  
15 provision, COUNTY shall have the right to immediately terminate this Agreement without liability and seek any  
16 other remedy provided by law or equity or this Agreement.

17 B. During the term of this Agreement, the CONSULTANT shall disclose any financial, business, or other  
18 relationship with COUNTY that may have an impact upon the outcome of this Agreement or any ensuing  
19 COUNTY construction project. The CONSULTANT shall also list current clients who may have a financial  
20 interest in the outcome of this Agreement or any ensuing COUNTY construction project which will follow.

21 C. CONSULTANT certifies that it has disclosed to COUNTY any actual, apparent, or potential conflicts of interest  
22 that may exist relative to the services to be provided pursuant to this Agreement. CONSULTANT agrees to  
23 advise COUNTY of any actual, apparent or potential conflicts of interest that may develop subsequent to the  
24 date of execution of this Agreement.

25 D. CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest  
26 that would conflict with the performance of services under this Agreement.

27 E. The CONSULTANT (nor any subconsultant nor any firms affiliated with the CONSULTANT or any  
28 subconsultant) shall not be eligible to perform any further phases of the projects or to bid on any construction  
29 contract or on any Agreement to provide construction inspection for any construction project resulting from

1 this Agreement. An affiliated firm is one, which is subject to the control of the same persons, though joint  
2 ownership or otherwise.

3 F. CONSULTANT's duties and services under this Agreement shall not include preparing or assisting the  
4 COUNTY with any portion of the COUNTY's preparation of a request for proposals, request for qualifications,  
5 or any other solicitation regarding a subsequent or additional contract with the COUNTY. The COUNTY  
6 entering this Agreement shall at all times retain responsibility for public contracting, including with respect to  
7 any subsequent phase of the projects. CONSULTANT's participation in the planning, discussions, or  
8 drawings of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or  
9 specifications. CONSULTANT shall cooperate with the COUNTY to ensure that all bidders for a subsequent  
10 contract on any subsequent phase of a project have access to the same information, including all conceptual,  
11 preliminary, or initial plans or specifications prepared by CONSULTANT pursuant to this Agreement.

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

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

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

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

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

- 25 1. No state, federal or COUNTY appropriated funds have been paid or will be paid, by or on behalf of the  
26 CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any  
27 local, state or federal agency, a Member of the State Legislature or United States Congress, an officer or  
28 employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in  
29 connection with the awarding of making of this Agreement, or with the extension, continuation, renewal,



1 amendment, or modification of this Agreement.

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

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

12 C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this  
13 certification be included in all lower tier sub agreements, which exceed one hundred thousand dollars  
14 (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

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

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

20 B. During the performance of this Agreement, CONSULTANT and its subconsultants shall not deny the  
21 Agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry,  
22 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,  
23 gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they  
24 unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment  
25 because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical  
26 condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
27 orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation  
28 and treatment of their employees and applicants for employment are free from such discrimination and  
29 harassment.

- 1 C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act  
2 (Government Code Section 12990 et seq.), the applicable regulations promulgated there under (2 CCR  
3 Section 11000 et seq.), the provisions of Government Code Sections 11135-11139.5, and the regulations or  
4 standards adopted by COUNTY to implement such article. The applicable regulations of the Fair Employment  
5 and Housing Commission implementing Government Code Section 12990 (a-f), set forth 2 CCR Sections  
6 8100-8504, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- 7 D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing  
8 and the COUNTY upon reasonable notice at any time during the normal business hours, but in no case less  
9 than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of  
10 information and its facilities as said Department or COUNTY shall require to ascertain compliance with this  
11 cause.
- 12 E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor  
13 organizations with which they have a collective bargaining or other agreement.
- 14 F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all  
15 subcontracts to perform work under this Agreement.
- 16 G. The CONSULTANT, with regard to the work under this Agreement, shall act in accordance with Title VI of the  
17 Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.). Title VI provides that the recipients of federal  
18 assistance will implement and maintain a policy of nondiscrimination in which no person in the United States  
19 shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in,  
20 denied the benefits of or subject to discrimination under any program or activity by the recipients of federal  
21 assistance or their assignees and successors in interest.
- 22 H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs  
23 of the U.S. Department of Transportation (49 CFR 21 – Effectuation of Title VI of the Civil Rights Act of 1964).  
24 Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited  
25 by 49 CFR Section 21.5, including employment practices and the selection and retention of subconsultants.
- 26 I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any  
27 person the benefits of, or otherwise discriminate against anyone in connection with the award and  
28 performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In  
29 administering the COUNTY components of DBE Program Plan, CONSULTANT, subrecipient or subconsultant



1 will not, directly or through contractual or other arrangements, use criteria or methods of administration that  
2 have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program  
3 Plan with respect to individuals of a particular race, color, sex, or national origin.

4 **ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION**

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

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

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

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

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

21 [Intentionally Omitted]

22 **ARTICLE XIX INDEMNIFICATION AND INSURANCE**

23 A. Basic Indemnity

- 24 1. To the fullest extent permitted by applicable law, CONSULTANT agrees to defend (through legal counsel  
25 reasonably acceptable to COUNTY), indemnify, and hold harmless the County of Riverside, its Agencies,  
26 Districts, Departments and Special Districts, Board of Supervisors, elected and appointed officials, and  
27 each of their respective directors, members officers, employees, agents, volunteers and representatives  
28 ("Indemnitees") and each of them from any and all Losses that arise out of or relate to any act or  
29 omission constituting ordinary and not professional negligence (including, without limitation, negligent

1 breach of contract), recklessness, or willful misconduct on the part of CONSULTANT or its subconsultants  
2 or their respective employees, agents, representatives, or independent contractors.

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

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

16 B. Indemnity for Design Professional Services

17 1. To the fullest extent permitted by Applicable Law, CONSULTANT agrees to defend (through legal counsel  
18 reasonably acceptable to COUNTY), indemnify and hold harmless the Indemnitees, and each of them,  
19 against any and all Losses that arise out of, pertain to, or relate to, any negligence, recklessness or willful  
20 misconduct constituting professional negligence on the part of CONSULTANT or its subconsultants, or  
21 their respective employees, agents, representatives, or independent contractors. The Indemnitees shall  
22 be entitled to the defense, and indemnification provided for hereunder regardless of whether the Loss is,  
23 in part, caused or contributed to by the acts or omissions of an Indemnitee or any other person or entity;  
24 provided, however, that nothing contained herein shall be construed as obligating CONSULTANT to  
25 indemnify and hold harmless any Indemnitee to the extent not required under the provisions of this  
26 section. CONSULTANT shall defend and pay, all costs and fees, including but not limited to attorney fees,  
27 cost of investigation, and defense, in any loss, suits, claims, demands, actions, or proceedings to the  
28 extent and in proportion to the percentage, such costs and fees arise out of, pertain to, or relate to the  
29 negligence, recklessness or willful misconduct of CONSULTANT arising out of or from the performance of



1 professional design services under this Agreement. The duty to defend applies to any alleged or actual  
2 negligence, recklessness, willful misconduct of CONSULTANT. The cost for defense shall apply whether  
3 or not CONSULTANT is a party to the lawsuit and shall apply whether or not CONSULTANT is directly  
4 liable to the plaintiffs in the lawsuit. The duty to defend applies even if Indemnitees are alleged or found to  
5 be actively negligent, but only in proportion to the percentage of fault or negligence of CONSULTANT.

- 6 2. Without affecting the rights of COUNTY under any other provision of this Agreement, CONSULTANT shall  
7 not be required to indemnify or hold harmless or provide defense or defense costs to an Indemnitee for a  
8 Loss due to that Indemnitee's negligence, recklessness or willful misconduct; provided, however, that  
9 such negligence, recklessness or willful misconduct has been determined by agreement of  
10 CONSULTANT and Indemnitee or has been adjudged by the findings of a court of competent jurisdiction.
- 11 3. CONSULTANT agrees to obtain or cause to be obtained executed defense and indemnity agreements  
12 with provisions identical to those set forth in this section from each and every subconsultant, of every tier.
- 13 4. CONSULTANT's indemnification obligations under this Agreement shall not be limited by the amount or  
14 type of damages, compensation or benefits payable under any policy of insurance, workers'  
15 compensation acts, disability benefit acts or other employee benefit acts.
- 16 5. The Indemnitees shall be entitled to recover their attorneys' fees, costs and expert and consultant costs in  
17 pursuing or enforcing their right to defense and/or indemnification under this Agreement.

18 C. INSURANCE

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

25 1. Workers' Compensation:

26 If the CONSULTANT has employees as defined by the State of California, the CONSULTANT shall  
27 maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State  
28 of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with  
29 limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive

1 subrogation in favor of the County of Riverside.

2 2. Commercial General Liability:

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

10 3. Vehicle Liability:

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

16 4. Professional Liability

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

27 5. General Insurance Provisions - All lines:

28 a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of  
29 California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are



1 waived, in writing, by the COUNTY Risk Manager. If the COUNTY's Risk Manager waives a  
2 requirement for a particular insurer such waiver is only valid for that specific insurer and only for one  
3 policy term.

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

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

- d. It is understood and agreed to by the parties hereto that the CONSULTANT's insurance shall be construed as primary insurance, and the COUNTY's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- e. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of services; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the COUNTY Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.
- f. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subconsultants working under this Agreement.
- g. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.
- h. CONSULTANT agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

**ARTICLE XX FUNDING REQUIREMENTS**

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

**ARTICLE XXI CHANGE IN TERMS**



- 1 A. This Agreement may be amended or modified only by mutual written agreement of the parties.
- 2 B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and  
3 notification to proceed has been provided by COUNTY Contract Administrator.
- 4 C. There shall be no change in CONSULTANT Project Manager or members of the project team, as listed as  
5 Key Personnel in the approved Scope of Services, which is a part of this Agreement without prior written  
6 approval by COUNTY Contract Administrator.

7 **ARTICLE XXII CONTINGENT FEE**

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

15 **ARTICLE XXIII DISPUTES**

- 16 A. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith,  
17 to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of  
18 good-faith negotiations and as may be otherwise provided herein, then either party may commence legal  
19 action against the other. This Agreement shall be governed by the laws of the State of California. Any legal  
20 action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court  
21 of the State of California located in Riverside, California, and the parties waive any provision of law providing  
22 for a change of venue to another location. In the event any provision in this Agreement is held by a court of  
23 competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless  
24 continue in full force without being impaired or invalidated in any way.
- 25 B. Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed  
26 of by agreement shall be decided by a committee consisting of COUNTY Contract Administrator and Director  
27 of Transportation, or designee, who may consider written or verbal information submitted by CONSULTANT.
- 28 C. Not later than thirty (30) days after completion of all deliverables necessary to complete the plans,  
29 specifications and estimate, CONSULTANT may request review by COUNTY Governing Board of unresolved

1 claims or disputes, other than audit. The request for review will be submitted in writing.

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

4 **ARTICLE XXIV INSPECTION OF WORK**

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

8 **ARTICLE XXV SAFETY**

9 A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety  
10 equipment or procedures. CONSULTANT shall comply with safety instructions issued by COUNTY Safety  
11 Officer and other COUNTY representatives. CONSULTANT personnel shall wear hard hats and safety vests  
12 at all times while working on the construction project site.

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

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

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

24 **ARTICLE XXVI OWNERSHIP OF DATA**

25 A. It is mutually agreed that all materials prepared by CONSULTANT under this Agreement shall become the  
26 property of COUNTY, and CONSULTANT shall have no property rights therein whatsoever. Immediately,  
27 upon termination, COUNTY shall be entitled to, and CONSULTANT shall deliver to COUNTY, reports,  
28 investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date,  
29 whether completed or not, and other such materials as may have been prepared or accumulated to date by



1 CONSULTANT in performing this Agreement which is not CONSULTANT's privileged information, as defined  
2 by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to  
3 COUNTY which is in CONSULTANT's possession. Publication of the information derived from work  
4 performed or data obtained in connection with services rendered under this Agreement must be approved in  
5 writing by COUNTY.

6 B. Additionally, it is agreed that the Parties intend this to be an Agreement for services and each considers the  
7 products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire.  
8 CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation,  
9 copyright) belongs to and shall be the sole and exclusive property of COUNTY without restriction or limitation  
10 upon its use or dissemination by COUNTY.

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

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

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

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

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

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

1 Agreement in order to resolve the construction claims.

2 **ARTICLE XXVIII CONFIDENTIALITY OF DATA**

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

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

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

12 D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding  
13 work performed or to be performed under this Agreement without prior review of the contents thereof by  
14 COUNTY, and receipt of COUNTY's written permission.

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

16 F. All information related to the construction estimate is confidential and shall not be disclosed by  
17 CONSULTANT to any entity other than COUNTY, Caltrans, and/or FHWA. All of the materials prepared or  
18 assembled by CONSULTANT pursuant to the performance of this Agreement are confidential and  
19 CONSULTANT agrees that they shall not be made available to any individual or organization without the prior  
20 written approval of COUNTY or except by court order. If CONSULTANT or any of its officers, employees, or  
21 subcontractors does voluntarily provide information in violation of this Agreement, COUNTY has the right to  
22 reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the  
23 information, including, but not limited to, COUNTY's attorney's fees and disbursements, including without  
24 limitation expert's fees and disbursements.

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

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



1 Board.

2 **ARTICLE XXX LEGAL COMPLIANCE**

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

8 **ARTICLE XXXI EVALUATION OF CONSULTANT**

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

12 **ARTICLE XXXII RETENTION OF FUNDS**

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

27 **ARTICLE XXXIII TITLE VI ASSURANCES**

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

1 **ARTICLE XXXIV NOTIFICATION**

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

6 **ARTICLE XXXV CONTRACT**

7 A. The two parties to this Agreement, who are the before named CONSULTANT and the before named  
8 COUNTY, hereby agree that this Agreement constitutes the entire agreement which is made and  
9 concluded in triplicate between the two parties. Both of these parties for and in consideration of the  
10 payments to be made, conditions mentioned, and work to be performed, each agree to diligently perform  
11 in accordance with the terms and conditions of this Agreement as evidenced by the signatures below.

12 B. This Agreement may be executed in any number of counterparts, each of which will be an original, but all  
13 of which together will constitute one instrument. Each party to this Agreement agrees to the use of  
14 electronic signatures, such as digital signatures that meet the requirements of the California Uniform  
15 Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this  
16 Agreement. The parties further agree that the electronic signatures of the parties included in this  
17 Agreement are intended to authenticate this writing and to have the same force and effect as manual  
18 signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically  
19 associated with an electronic record and executed or adopted by a person with the intent to sign the  
20 electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an  
21 electronic signature for transactions and contracts among parties in California, including a government  
22 agency. Digital signature means an electronic identifier, created by computer, intended by the party using  
23 it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon  
24 by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as  
25 defined in subdivision (i) of Section 1633.2 of the Civil Code.


26  
27 [SIGNATURE PAGE FOLLOWS]  
28  
29



ARTICLE XXXVI SIGNATURES

COUNTY Signatures

RECOMMENDED FOR APPROVAL:

 Dated: 8/19/24

Dennis Acuna

Director of Transportation


APPROVED AS TO FORM:

County Counsel

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

By Deputy

APPROVAL BY THE BOARD OF SUPERVISORS


 Dated: 9/10/2024

CHUCK WASHINGTON

PRINTED NAME

Chair, Riverside County Board of Supervisors

ATTEST:

 Deputy Dated: 9/10/2024

KIMBERLY RECTOR

Clerk of the Board (SEAL)

CONSULTANT Signatures

CONSULTANT:

 Dated: 8/07/24

Jose Corona

PRINTED NAME

CEO

TITLE

ATTACHMENT A • SCOPE OF SERVICES

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ARTICLE AI • INTRODUCTION

A. DESCRIPTION

CONSULTANT shall provide on-call construction management and inspection services under this Agreement as set forth in each executed Task Order.

B. LOCATION

Task Orders may be for projects located anywhere within the jurisdictional boundaries of the County of Riverside as outlined in the map shown below.

Map of the County of Riverside



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 Contract Administrator. All documents shall be prepared using English Standard Units and dimensions.

E. KEY PERSONNEL

The CONSULTANT has represented to the COUNTY that certain key personnel will perform the services and if one or more of such personnel should become unavailable, CONSULTANT may substitute other personnel of at least equal competence only after prior written approval by the COUNTY Contract Administrator has been secured. The key personnel for performance of this Agreement are:

<b>Assignment</b>	<b>Key Personnel</b>
Project Manager	Faisal Zahlout, PE

**ARTICLE AII • CONTRACT ADMINISTRATION**

**A. CONTRACT MANAGEMENT**

The CONSULTANT Project Manager will maintain ongoing liaison with the COUNTY Contract Administrator and other effected agencies to promote effective coordination during the course of working on Task Orders.

**B. COST ACCOUNTING**

The CONSULTANT will prepare and submit monthly invoices of expenditures for each on-call Task Order. All Invoices will include all supporting data.

**C. SCHEDULING**

Schedules will be prepared for each specific Task Order.

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

The scope of work for this Agreement is to provide on-call services to the Riverside County Transportation Department for transportation related services located throughout Riverside County. Services will be performed at the request of the COUNTY Contract Administrator. The CONSULTANT may be required to provide on-call services that include but are not limited to the following:

1. Construction Management
2. Construction Inspection (Includes Roadway and Structures)
3. Specialty Inspection (Includes Landscape, SWPPP, Electrical)
4. Construction Reviews
5. Contract Administration
6. Geotechnical Engineering and Material Testing
7. Source Inspection
8. Environmental Review and Reports
8. Provide public outreach
9. Provide other construction management and inspection related professional services as required



**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 below. All Task Orders authorized under this Agreement must be authorized no later than June 30, 2029. All services authorized by Task Orders shall be completed by the Agreement expiration date. If work on a Task Order is in progress on the expiration date of this Agreement, the period of performance of this Agreement shall be extended by a written amendment signed by the authorized representatives of both parties prior to the expiration of the period of performance to cover the time needed to complete the Task Order in progress only. An amendment extending the period of performance of this Agreement to cover the time needed to complete a Task Order in progress may be signed by the Director of Transportation if authorized by the COUNTY Board of Supervisors. If written amendment is executed, Task Order services authorized in this Agreement shall therefore be completed no later than June 30, 2031. Deliverables/Services schedules will be prepared for each specific Task Order that the CONSULTANT is assigned.

**ARTICLE BII • PERFORMANCE REQUIREMENTS**

**A. SUBMITTALS**

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

**B. 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

**C. 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 performed after the Agreement end date as provided in ARTICLE IV PERFORMANCE PERIOD unless extended by amendment regardless if a Notice of Final Acceptance has been issued or not. The final invoice shall be submitted within 60 calendar days after completion of CONSULTANT’s work as required by ARTICLE V ALLOWABLE COSTS AND PAYMENTS. CONSULTANT may request a Notice of Final Acceptance determination when, in its opinion, it has satisfactorily completed all covenants as stipulated in this 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 the hourly rates specified herein and the negotiated cost estimate for each specific Task Order. Actual costs for any Task Order shall not exceed the authorized cost estimate. The sum of the Task Order cost estimates authorized shall not exceed the maximum amount of this Agreement.

ARTICLE CII • ELEMENTS OF COMPENSATION

Compensation for the services provided will be comprised of the following elements: HOURLY RATES, INCURRED (ACTUAL) DIRECT COSTS and OUTSIDE SERVICES.

A. HOURLY RATES

The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead and fee. These rates are not adjustable for the period of performance set forth in the Agreement.

B. INCURRED (ACTUAL) DIRECT COSTS

Additional incurred (actual) direct costs, directly identifiable to the performance of the services of this Agreement, shall be reimbursed at the rates defined in each Task Order, or at actual cost. Travel by air and/or travel in excess of 100 miles must have COUNTY's prior written approval to be reimbursed under this Agreement.

C. OUTSIDE SERVICES

Outside services shall be paid in accordance with the negotiated cost estimate for each Task Order and in conformance with the COUNTY Consulting Services Manual invoicing procedures. Firms proposed to provide subconsulting services under this Agreement are listed below:

- Connect & Company, LLC
- Dynamic Engineering Services, Inc..
- Twining, Inc.
- ZT Consulting Group, Inc.
- Ecorp Consulting, Inc.

ARTICLE CIII • INVOICING

CONSULTANT shall submit invoices in accordance with ARTICLE V ALLOWABLE COSTS AND PAYMENTS

1 of the Agreement and with the following requirements.

- 2 1. Billings for hours worked, incurred (actual) direct costs and outside services shall be included in
- 3 CONSULTANT's monthly invoice submittals and be in conformance with the COUNTY's Consulting
- 4 Services Invoicing Procedures.
- 5 2. The charges for each individual assigned under this Agreement shall be listed separately.
- 6 3. Charges for incurred (actual) direct costs shall be accompanied by substantiating documentation such
- 7 as invoices, telephone logs, etc.
- 8 4. Each invoice shall bear a certification signed by the CONSULTANT Project Manager or an officer of
- 9 the firm which reads as follows:

10 "I hereby certify that the hours and salary rates charged in this invoice are the actual hours and

11 rates worked and paid to the employees listed."

12 **ARTICLE CIV • PAYMENT**

13 Progress payments shall be made in accordance with ARTICLE V ALLOWABLE COSTS AND PAYMENTS of the

14 Agreement. The total amount payable by COUNTY for all Task Orders resulting from this Agreement shall not

15 exceed \$5,000,000.

16 **ARTICLE CV • HOURLY RATES**

17 COUNTY shall pay CONSULTANT at the Loaded Hourly Billing Rates attached unless a Capped Rate is listed. If

18 a Capped Rate is listed, COUNTY shall pay CONSULTANT at the Capped Rate. These rates shall be applicable

19 to both straight time and overtime work unless payment of premium for overtime work is required by law, regulation

20 or craft agreement, or is otherwise specified in this Agreement.



SAMPLE COST PROPOSAL

Sample Only - Required Cost Proposal Template To Be Determined By Agency

HOURLY RATES

Please Note: Consultant completes all items in yellow highlight

CONSULTANT: SYRUSA Engineering, Inc. PRIME: X SUB: DATE: 1/29/2024 CONTRACT TYPE: Time and Material CONTRACT NO.: DATE: 1/29/2024 Prime Consultant's Contract Amount \$:

Loaded Rate Calculation table with formulas for Non-Exempt Employee Loaded Billing Rates (A, B, C), Employee Loaded Billing Rates (D), and Hourly Rate calculation (E). Includes formulas for Straight Time, Overtime, and various benefit percentages.

Main table of Hourly Rates with columns for Name/Classification, Effective Date of Hourly Rates, Prevailing Wage Rate established by State DIR, Employee Actual Rate, DELTA (TOTAL) = Employee Total Rate - DIR Rate, APPLICABLE DELTA BASES, APPLICABLE DELTA PRIME %, and Actual Hourly Rate. Rows include various roles like Ruth Bliss BSCE, EIT, Praveen Vaidya BSCE, EIT, etc.

























# HOURLY RATES

Please Note: Consultant completes all items in yellow highlight

CONTRACT TYPE: Prime Consultant/Contract Award

PROJECT NO: \_\_\_\_\_ CONTRACT NO: \_\_\_\_\_

PRIME \_\_\_\_\_ SUB \_\_\_\_\_ X \_\_\_\_\_ DATE: April 9, 2024

Loaded Rate Calculation

Non-Exempt Employees Loaded Billing Rates

A) Straight Time = Actual Hourly Rate \* (1 + Fwd O.H.) \* (1 + Fee) + Delta Base + (Applicable Multiplier Delta Base) + Delta Fringe + (Applicable Multiplier Delta Fringe)

B) 1.5X or 2.0X Overtime = Actual Hourly Rate \* (1 + Fwd O.H.) \* (1 + Fee) \* 1.5X or 2.0X (Actual Hourly Rate) + Delta Base + (Applicable Multiplier Delta Base) + Delta Fringe + (Applicable Multiplier Delta Fringe)

C) Straight Time at 1.5X or 2.0X Overtime = Actual Hourly Rate \* (1 + Fwd O.H.) \* (1 + Fee) + Delta Base + (Applicable Multiplier Delta Base) + Delta Fringe + (Applicable Multiplier Delta Fringe)

The PW differentials Delta Base and Delta Fringe shown in the formula above for Loaded Billing Rates are applicable only when performing services covered under DPR determinations.

Name/Classification	Office Personnel Personnel	Effective Date of Hourly Rate	Prevailing Wage Rate established by State DPR (Fringe Benefits for applicable)		Employee Actual Rate (Fringe Benefits for applicable)		Delta (TOTAL) = Employee Total Rate - DPR Rate		Delta (BASE) = Employee Base - DPR Base		Delta (FRINGE) = Employee Fringe - DPR Fringe		Delta (TOTAL - DELTA) = Delta (TOTAL) - Delta (FRINGE)		Delta (TOTAL - DELTA) = Delta (TOTAL) - Delta (FRINGE)		Delta (TOTAL - DELTA) = Delta (TOTAL) - Delta (FRINGE)		Hourly Rate and/or Average Hourly Rate	Hours Range for Class	
			Rate Salary	Benefits	Rate Salary	Benefits	Employee Total Rate - DPR Rate	Employee Base - DPR Base	Employee Fringe - DPR Fringe	Delta (TOTAL) - Delta (FRINGE)	Delta (TOTAL) - Delta (FRINGE)	Delta (TOTAL) - Delta (FRINGE)	Delta (TOTAL) - Delta (FRINGE)	Delta (TOTAL) - Delta (FRINGE)	Delta (TOTAL) - Delta (FRINGE)	Delta (TOTAL) - Delta (FRINGE)	Delta (TOTAL) - Delta (FRINGE)				
Andrea Suarez	FIELD	7/1/2024	6/30/2025																		
Community Outreach Director	FIELD	7/1/2025	6/30/2026																		
Community Outreach Director	FIELD	7/1/2026	6/30/2027																		
Community Outreach Director	FIELD	7/1/2028	6/30/2029																		
Christine Feldman	FIELD	7/1/2024	6/30/2025																		
Art Director/Graphic Designer	FIELD	7/1/2025	6/30/2026																		
Non-Prevailing Wage Work Exempt	FIELD	7/1/2026	6/30/2027																		
Non-Prevailing Wage Work Exempt	FIELD	7/1/2028	6/30/2029																		
Open Position	FIELD	7/1/2024	6/30/2025																		
Senior Community Outreach Specialist	FIELD	7/1/2025	6/30/2026																		
Senior Community Outreach Specialist	FIELD	7/1/2026	6/30/2027																		
Senior Community Outreach Specialist	FIELD	7/1/2028	6/30/2029																		
Senior Community Outreach Specialist	FIELD	7/1/2029	6/30/2030																		
Male Bandow	FIELD	7/1/2024	6/30/2025																		
Community Outreach Specialist	FIELD	7/1/2025	6/30/2026																		
Community Outreach Specialist	FIELD	7/1/2026	6/30/2027																		
Non-Prevailing Wage Work Exempt	FIELD	7/1/2028	6/30/2029																		
Open Position	FIELD	7/1/2024	6/30/2025																		
Community Outreach Specialist	FIELD	7/1/2025	6/30/2026																		
Community Outreach Specialist	FIELD	7/1/2026	6/30/2027																		
Community Outreach Specialist	FIELD	7/1/2028	6/30/2029																		
Community Outreach Specialist	FIELD	7/1/2029	6/30/2030																		

1. "NC" denotes No Charge for work more than 8 hours per day and for weekends and holidays for this contract only.

2. The billing rates shown in this cost proposal for field staff are calculated with actual fringe benefits of the staff. The actual billing rates to be used in the invoices will be calculated by using the actual PW fringe benefits of the individual staff in accordance with the certified benefits statements submitted with each invoice.

3. The billing rates shown in this cost proposal for office personnel are calculated with actual fringe benefits of the staff. The actual billing rates to be used in the invoices will be calculated by using the actual PW fringe benefits of the individual staff in accordance with the certified benefits statements submitted with each invoice.

4. Travel Time Charges: For Managers: On weekdays up to a maximum of 6 hours will be charged for work time, travel time or any combination of travel and work time. Billing Rate = Loaded Rate Formula "C" Above. For Non-Manager: On weekdays up to a maximum of 6 hours will be charged for work time, travel time or any combination of travel and work time. Billing Rate = Loaded Rate Formula "C" Above.

5. All travel time, outside of the regular work day, will be billed actual travel time not to exceed 8 hours in any one day or one way travel will be billed as follows: All travel time, outside of the regular work day, will be billed actual travel time not to exceed 8 hours in any one day or one way travel will be billed at full normal overhead rate (i.e., without the application of the 1.5X or 2.0X multiplier for overtime as follows).

6. For Non-Exempt Employees: During regular work day, actual travel time not to exceed 8 hours in any one day or one way travel will be billed as follows: All travel time, outside of the regular work day, will be billed actual travel time not to exceed 8 hours in any one day or one way travel will be billed at full normal overhead rate (i.e., without the application of the 1.5X or 2.0X multiplier for overtime as follows).











ATTACHMENT D • TITLE VI ASSURANCES

ARTICLE DI • INTRODUCTION

The U.S. Department of Transportation Order No. 1050.2A requires all federal-aid Department of Transportation contracts between COUNTY and CONSULTANT to contain Clauses A and E of Article DII • Clauses below. Clauses B, C, and D of Article DII • Clauses below are only applicable as shown below. In addition, the CONSULTANT must include Clauses A and E, and if applicable, Clauses B, C, and D of Article DII • Clauses below in all subcontracts to perform work under this Agreement.

Clause B of Article DII • Clauses below shall be included as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use or improvements thereon or interest therein to COUNTY. Clauses C and D of Article DII • Clauses below shall be included as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by COUNTY with other parties: (a) for the subsequent transfer of real property acquired or improved under the applicable activity, project or program; and (b) for the construction of use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project or program.

ARTICLE DII • CLAUSES

**CLAUSE A**

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

- a. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this Agreement.
- b. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

- 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.  
28  
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).