

C O N T R A C T

THIS CONTRACT, hereinafter referred to as “Contract” for purposes of identification hereby numbered MA-080-22011119, and dated _____ day of _____, 20_____ is

BY AND BETWEEN

County of Orange, a political subdivision of the State of California, hereinafter referred to as “County”

AND

Mark Thomas & Company, Inc., a California Corporation, hereinafter referred to as “A-E,”

which are sometimes individually referred to as “Party” or collectively referred to as “Parties.”

RECITALS

WHEREAS, County requires professional services to accomplish projects and/or services (“Projects/Services”) as described in MA-080-22011119 Scope of Work for OC Loop Segment O, P & Q Coyote Creek Channel (A01), hereinafter referred to as “Attachment A,”; and,

WHEREAS, A-E is a firm whose principals are, as required by law, registered by the State of California for the practice of specialized A-E services per the attached Scope of Work.

NOW, THEREFORE, IT IS AGREED by and between the Parties hereto as follows:

1. GENERAL

1.1. Retainer

- 1.1.1.** County does hereby retain A-E to perform the Projects/Services as required by this Contract.
- 1.1.2.** A-E has offered, and County has accepted, the professional services of **Ravi Shah, PE** and A-E shall assign him/her to the Projects/Services.
- 1.1.3.** A-E may employ special consultants/contractors for the accomplishment of the Projects/Services specified; and only the firms or independent consultants/contractors identified in Attachment C, attached hereto and incorporated herein by reference, may be employed by A-E to provide these Projects/Services.
- 1.1.4.** Consultants/contractors may be substituted and/or added by mutual agreement of A-E and the Director, County of Orange, OC Public Works or his designee, hereinafter referred to as “Director”.
- 1.1.5.** A-E's employment of independent consultants/contractors shall not relieve A-E from the performance of its own responsibilities pursuant to this Contract. However, all consultants/contractors independently contracting with County shall be independently liable to County for the performance of the work pursuant to their agreements, and A-E shall have no liability for work by contractors independently contracting with County.

1.2. Projects/Services**1.2.1. Description of Projects/Services**

- a. Projects/Services to be performed by A-E shall consist of the work as specified herein and as required in Attachment A, attached hereto and incorporated herein by reference. If in the event Attachment A shall be in conflict with any provision of this Contract, the wording as set forth in Attachment A shall prevail.
- b. A-E shall be responsible for submitting all Projects/Services to County in a form which has been thoroughly reviewed and checked for completeness, accuracy and consistency by the registered professional named in Section 1.1.2 herein; and, any Projects/Services not meeting this requirement will be returned to A-E prior to review by County.

1.2.2. Design Criteria and Standards

All Projects/Services shall be performed in accordance with instructions, criteria and standards set forth by the Director.

1.2.3. Scheduling

- a. Concurrently with the work of the Contract, A-E shall prepare a progress work schedule and within five (5) working days from the date of receipt of individual assignments from County, A-E shall submit to County two (2) copies of a progress work schedule which shall delineate dates of commencement and completion of the various phases of Projects/Services assignments. A-E schedule shall include required County review period(s) set forth herein. An approved copy of the progress schedule will be returned to A-E.
- b. A-E shall allow at least five (5) working days for County review of progress work schedule. In planning work, A-E should anticipate and allow ten (10) working days for County review of each submittal required in Attachment A.
- c. A-E shall meet on an as-needed basis as determined by County or at least once every four (4) weeks with County to review progress of work, adherence to progress schedule, coordination of work, scheduling of seminars, if needed, and to resolve any problems that may develop.
- d. Within five (5) working days of each meeting, A-E shall prepare a brief memorandum summarizing the results of the meeting and shall submit it to County for concurrence.
- e. A-E shall complete all the work of Projects/Services and obtain all approvals by the County within the time frame indicated in Attachment A except A-E shall not be responsible for any delay beyond the control of A-E.
- f. In the event A-E fails to complete the work and obtain the approval of Director in the time allowed, County shall have the option of completing the work by its own forces or by contract with another firm. The time allowed for A-E to complete the Projects/Services pursuant to this Contract shall be extended for delay caused by County in completing its work pursuant to this Contract which delay exceeds the agreed County review and/or approval time periods.

1.3. Assistance by County Staff

- 1.3.1.** County shall assign an appropriate staff member to work with A-E in connection with the work of this Contract. Said staff member's duties will consist of the giving of advice and consultations, assisting A-E in negotiations with other public agencies and private parties, miscellaneous items which in the judgment of A-E or County's staff warrant attention, and all other duties as may be described in Attachment A.
- 1.3.2.** All of the above activities, however, shall be the primary responsibility of A-E to schedule, initiate and carry through to completion.

1.4. Performance Period (LAPM Article IV) and Maximum Compensation

- 1.4.1.** This Contract shall go into effect on May 26, 2022, contingent upon approval by the Board of Supervisors, and A-E shall commence work after notification to proceed by County's Contract Administrator. The Contract shall end after the fifth year, unless extended by contract amendment.
- 1.4.2.** A-E is advised that any recommendation for Contract award is not binding on County until the Contract is fully executed and approved by County.
- 1.4.3.** The maximum allowable compensation for this Contract is **Five Million, Four Hundred Eighty-Seven Thousand, Three Hundred Forty-Three Dollars (\$5,487,343)**.
- a.** The work to be performed under this Contract is described in Attachment A, Statement of Work and Attachment B, Cost/Compensation. The approved A-E's Cost Proposal, dated January 28, 2022, is attached hereto (Exhibit No. 1) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this Contract, this Contract shall take precedence.

1.5. A-E Compensation and Extra Work

- 1.5.1.** For the Projects/Services authorized under this Contract, A-E shall be compensated in accordance with the following:
- 1.5.2.** For completion and approval of all Projects/Services where "Extra Work" (defined as changes in approved portions of the Projects/Services required by and ordered in writing by Director which changes constitute a change in or departure from said approved portions of Projects/Services) is not authorized, compensation including reimbursables shall be described and payable as stipulated in Fee Schedule, herein after referred to as "Attachment B", attached hereto and incorporated herein by reference.
- 1.5.3.** Where Extra Work is authorized for Projects/Services:
- a.** The amount for Extra Work shall be determined using Attachment B. Extra Work shall be required by and ordered in writing by Director. If this Contract is not approved by the Board of Supervisors, any change that increases the cumulative Contract price beyond \$200,000 must be approved by the Board. Extensions and increases in the Contract amount for services within the existing scope of work may be granted by the Director where the amount does not exceed 25 percent of the existing Contract price or \$200,000, whichever is less.
- b.** A-E's billing for the Extra Work shall include but not be limited to names of A-E's staff employed in the Extra Work, classification of employees and number of hours worked.

- 1.5.4.** For partial completion of work of Projects/Services followed by default on part of A-E:
- a. For failure to complete and secure approval of the first required submittal, there shall be no compensation.
 - b. For failure to complete and secure approval of other authorized phases, A-E shall, upon completion of Projects/Services by others, be entitled to receive compensation based on approved work of Projects/Services not to exceed the amounts specified in Attachment A for that particular submittal, plus the reasonable value as determined by County of the non-approved work; provided, however, that if the cost to County to complete the contract exceeds the amount specified herein, A-E shall be liable to County for such excess costs attributable to A-E's breach of the Contract.

2. LABOR

2.1 Non-Employment of County Personnel

2.1.1 A-E agrees that it will neither negotiate, offer, or give employment to any full-time, regular employee of County in professional classifications of the same skills required for the performance of this Contract who is involved in this Project in a participatory status during the life of this Contract regardless of the assignments said employee may be given or the days or hours employee may work.

2.1.2 Nothing in this Contract shall be deemed to make A-E, or any of A-E's employees or agents, agents or employees of the County. A-E shall be an independent contractor and shall have responsibility for and control over the details and means for performing the work, provided that A-E is in compliance with the terms of this Contract. Anything in the Contract which may appear to give County the right to direct A-E as to the details of the performance of the work or to exercise a measure of control over A-E shall mean that A-E shall follow the desires of County, only in the results of the work.

2.2 Non-Discrimination

2.2.1 In the performance of this Contract, A-E agrees that it will comply with the requirements of the California Labor Code and not engage nor permit any subconsultants to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons.

2.2.2 A-E acknowledges that a violation of this provision shall subject A-E to all the penalties imposed for a violation of the California Labor Code.

2.3 Employee Eligibility Verification

A-E warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens, and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. A-E shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations, including but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324 et seq., as they currently exist and as they may be hereafter amended. A-E shall retain all such documentation for all covered

employees for the period prescribed by the law.

2.4 Independent Contractor

2.4.1 As referenced in Section 2.1.2 of this Contract, A-E shall be considered an independent contractor.

2.4.2 Neither A-E, its employees nor anyone working under A-E shall qualify for workers' compensation or other fringe benefits of any kind through County.

2.5 Conflict of Interest Contractor Personnel

2.5.1 The A-E shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the A-E; the A-E's employees, agents, and relatives; sub-tier contractors; and third parties associated with accomplishing work and Projects/Services hereunder.

2.5.2 A-E's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from: making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.

2.6 Labor Code Notice

All A-E and subconsultants must comply with the requirements of California Labor Code 1770 et seq. if the work performed is considered a "public works" under California Labor Code 1720 et seq. A-E is encouraged to contact the California Department of Industrial Relations for clarification if the A-E is unsure if some or any of the work performed under this Contract qualifies as "public works".

3. INSURANCE

3.1. Requirements and Endorsements

3.1.1 Prior to the provision of services under this Contract, the A-E agrees to purchase all required insurance at A-E's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. A-E agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. The County reserves the right to request the declarations page showing all endorsements and a certified copy of the policy. In addition, all subconsultants performing work on behalf of A-E pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for A-E.

3.1.2 A-E shall ensure that all subconsultants performing work on behalf of A-E pursuant to this Contract shall be covered under A-E's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for A-E. A-E shall not allow subconsultants to work if subconsultants have less than the level of coverage required by County from A-E under this Contract. It is the obligation of A-E to provide notice of the insurance requirements to every subconsultant and to receive proof of insurance prior to allowing any subconsultants to begin work. Such proof of insurance must be maintained by A-E through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

3.1.3 All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance.

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Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of A-E's current audited financial report. If A-E's SIR is approved, A-E, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

1. In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from A-E's, its agents, employee's or subconsultant's performance of this Contract, A-E shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
2. A-E's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the A-E's SIR provision shall be interpreted as though the A-E was an insurer and the County was the insured.

3.1.4 If the A-E fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

A. Qualified Insurer

1. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

2. The policy or policies of insurance maintained by the A-E shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claims made or per occurrence \$2,000,000 aggregate

Environmental/Pollution Liability	\$1,000,000 per claims made or occurrence
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B. Required Coverage Forms

1. The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage as broad.
2. The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

C. Required Endorsements

1. The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:
 - a. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the *County of Orange, the Los Angeles County Flood Control District, the Orange County Flood Control District, the City of Buena Park, the City of La Mirada, City of Cerritos and their respective elected and appointed officials, officers, employees, agents and volunteers* as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN AGREEMENT**.
 - b. A primary non-contributing endorsement using ISO form CG 20 01 0413, or a form at least as broad evidencing that A-E's insurance is primary, and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
2. The Pollution Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:
 - a. An Additional Insured endorsement naming the *County of Orange, the Los Angeles County Flood Control District, the Orange County Flood Control District, the City of Buena Park, the City of La Mirada, City of Cerritos and their respective elected and appointed officials, officers, employees, agents and volunteers* as Additional Insureds.
 - b. A primary non-contributing endorsement evidencing that A-E's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
3. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the *County of Orange, the Los Angeles County Flood Control District, the Orange County Flood Control District, the City of Buena Park, the City of La Mirada, City of Cerritos and their respective elected and appointed officials, officers, employees, agents and volunteers*, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN AGREEMENT**.

4. All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.
5. A-E shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.
6. If A-E's Professional Liability and/or Pollution Liability policy(ies) is/are a claims-made policy, A-E shall agree to maintain professional liability and/or pollution liability coverage for two (2) years following completion of Contract.
7. The Commercial General Liability policy shall contain a severability of interests clause (standard in the ISO CG 001 policy).
8. Insurance certificates should be forwarded to the agency/department address listed on the solicitation.
9. If the A-E fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.
10. County expressly retains the right to require A-E to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.
11. County shall notify A-E in writing of changes in the insurance requirements. If A-E does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to A-E, and County shall be entitled to all legal remedies.
12. The procuring of such required policy or policies of insurance shall not be construed to limit A-E's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

4. INDEMNITY/COMPLIANCE

4.1 Indemnification

- 4.1.1 A-E shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, the Los Angeles County Flood Control District, the Orange County Flood Control District, the City of Cerritos, the City of Buena Park, the City of La Mirada and their agents, officers, employees and volunteers from employer sanctions and any other liability which may be assessed against A-E or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.**

- 4.1.2** All Projects/Services submitted by A-E shall be complete and shall be carefully checked prior to submission. A-E understands that County's checking is discretionary, and A-E shall not assume that County will discover errors and/or omissions. If County discovers any errors or omissions prior to approving A-E's Projects/Services, the Projects/Services will be returned to A-E for correction. Should County or others discover errors or omissions in the work submitted by A-E after County's approval thereof, County's approval of A-E's Projects/Services shall not be used as a defense by A-E.
- 4.1.3** A-E agrees to, indemnify, defend with counsel approved in writing by County, and hold the County, the Los Angeles County Flood Control District, the Orange County Flood Control District, the City of Cerritos, the City of Buena Park, the City of La Mirada and their elected and appointed officials, officers, employees, agents, volunteers and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the A-E. If judgment is entered against A-E and County by a court of competent jurisdiction because of the concurrent active negligence of A-E and County or County Indemnitees, A-E and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment. Notwithstanding anything stated above, nothing contained herein shall relieve A-E of any insurance requirements or obligations created elsewhere in this Contract.

4.2 Bills and Liens

- 4.2.1** A-E shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. A-E shall not permit any lien or charge to attach to the work or the premises, **but if any does so attach, A-E shall promptly procure its release and, in accordance with the requirements of the indemnification paragraph above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses arising from or related thereto.**

4.3 Compliance with Laws

- 4.3.1** A-E represents and agrees that services to be provided under this Contract shall fully comply, at A-E's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the Projects/Services at the time Projects/Services are provided to and accepted by County.
- 4.3.2** A-E acknowledges that County is relying on A-E for such compliance, and pursuant to the requirements of the indemnification paragraph above, **A-E agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.**

5. TERMINATION

5.1 Termination of Contract for Cause

- 5.1.1** If A-E breaches any of the covenants or conditions of this Contract, County shall have the right to terminate this Contract upon ten (10) days written notice prior to the effective day of termination.

- 5.1.2** A-E shall have the opportunity to cure the alleged breach prior to termination.
- 5.1.3** In the event the alleged breach is not cured by A-E prior to termination, all work performed by A-E pursuant to this Contract, which work has been reduced to plans or other documents, shall be made available to County.
- 5.2 Termination for Convenience**
- 5.2.1** Notwithstanding any other provision of the Contract, County may at any time, and without cause, terminate this Contract in whole or in part, upon not less than seven (7) calendar days' written notice to the A-E. Such termination shall be effected by delivery to the A-E of a notice of termination specifying the effective date of the termination and the extent of the Work to be terminated.
- 5.2.2** A-E shall immediately stop work in accordance with the notice and comply with any other direction as may be specified in the notice or as provided subsequently by County.
- 5.2.3** County shall pay the A-E for the Work completed prior to the effective date of the termination, and such payment shall be the A-E's sole remedy under this Contract.
- 5.2.4** Under no circumstances will A-E be entitled to anticipatory or unearned profits, consequential damages, or other damages of any sort as a result of a termination or partial termination under this Paragraph.
- 5.2.5** A-E shall insert in all subcontracts that the subconsultant shall stop work on the date of and to the extent specified in a notice of termination and shall require subconsultants to insert the same condition in any lower tier subcontracts.

5.3 Breach of Contract

The failure of the A-E to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event, in addition to any other remedies available at law, in equity, or otherwise specified in this Contract, the County may:

- a. afford the A-E written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
- b. discontinue payment to the A-E for and during the period in which the A-E is in breach; and
- c. offset those monies disallowed pursuant to the above, against any monies billed by the A-E but yet unpaid by the County.

5.4 Default

- 5.4.1** In the event any equipment or service furnished by the A-E in the performance of this Contract should fail to conform to the specifications therein within one (1) calendar year from the County's acceptance of the equipment or service, or any performance period specifically specified within the specifications or Contract, whichever is greater, the County may reject same, and it shall become the duty of the A-E to reclaim and remove the items without expense to the County and to immediately replace all such rejected equipment or service with others conforming to such specifications, provided that should the A-E fail, neglect or refuse to do so within one hundred and twenty (120) calendar days, the County shall have the right to purchase on the open market a corresponding quantity

of any such equipment or service and to deduct from any monies due or that may thereafter become due to the A-E the difference between the price specified in this Contract and the actual cost to the County.

- 5.4.2** In the event the A-E shall fail to make prompt delivery as specified of any equipment or service, the same conditions as to the rights of the County to purchase on the open market and to reimbursement set forth above shall apply, except as otherwise provided in this Contract.
- 5.4.3** In the event of the cancellation of this Contract, either in whole or in part, by reason of the default or breach by the A-E, any loss or damage sustained by the County in procuring any equipment or service which the A-E agreed to supply under this Contract shall be borne and paid for by the A-E.
- 5.4.4** Default shall include failure to carry out any of the requirements of this Contract, including, but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the Projects/Services as agreed to herein, or otherwise substantially violating any provision of this Contract.
- 5.4.5** **Orderly Termination:** Upon termination of this Contract for any reason, each Party shall assist the other Party in transferring all assets, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party, including all data and any unfinished, preliminary or draft documents. Each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of performance of this Contract.
- 5.4.6** The right of either party to terminate this Contract hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

6. MISCELLANEOUS

6.1 Laws to be Observed

A-E is assumed to be familiar with and, at all times, shall observe and comply with all federal, state and local laws, ordinances and regulations in any manner affecting the conduct of the Projects/Services.

6.2 Award of Construction Contract and Other Future Contracts

A-E is hereby informed that provisions of the Public Contract Code, the Political Reform Act of 1974, other statutes, regulations, and County policy prohibit, as an impermissible conflict of interest, the award of a contract for the construction of the project(s) on which A-E performed architectural-engineering services under this A-E Contract. A-E is hereby informed that these statutes and regulations could also prohibit the award to A-E of design or other contracts on future phases related to tasks performed by A-E under this Contract. This prohibition applies also to a subconsultant of or parent company of the firm that performed architectural-engineering tasks under this Contract.

6.3 Amendments

No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

6.4 Successors and Assigns

The terms and provisions of this Contract shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

6.5 Entirety

This Contract contains the entire agreement between the parties with respect to the matters provided for herein.

6.6 Severability

If any part of this Contract is held, determined, or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this Contract shall be given effect to the fullest extent reasonably possible.

6.7 Binding Obligation

The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity enforceable in accordance with its terms.

6.8 Governing Law and Venue

6.8.1 This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure, Section 394.

6.8.2 The Parties specifically agree that by soliciting and entering into and performing Projects/Services under this Contract, the A-E shall be deemed to constitute doing business within Orange County from the time of solicitation of work, through the period when all Projects/Services under this Contract is completed and continuing until the expiration of any applicable limitations period.

6.9 Intentionally Omitted**6.10 Ownership of Documents**

6.10.1 All data, including but not limited to letters, reports, files, plans, drawings, specifications, proposals, sketches, diagrams and calculations, prepared by A-E and/or anyone acting under the supervision of A-E pursuant to this Contract, shall become the property of County upon preparation by A-E and may be used by the County as it may require without additional cost to the County.

6.10.2 A-E, at County's direction and upon County's request, shall transmit and convey to County all such data described in Section 6.10.1 above, in native format and regardless of whether such data constitutes a draft, preliminary, or final document within three (3) business days. Failure by A-E to promptly comply with such direction and request by County shall constitute a material breach of A-E's responsibilities under this Contract.

6.10.3 County shall not be limited in any way to its use thereof at any time, including the release of this data to third parties. A-E shall be held harmless for release of such data as may be

prepared or created under this Contract to any third party. If A-E and/or anyone acting under the supervision of A-E should later desire to use any of the data prepared in connection with this Contract, A-E shall first obtain the written approval of County.

6.11 Confidentiality

6.11.1 All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, and all written or other information submitted to A-E in connection with the performance of this Contract shall be held confidential by A-E and/or anyone acting under the supervision of A-E and shall not, without the prior written consent of County, be used for any purposes other than the performance of the Projects/Services described in Attachment A, nor be disclosed to any person, partnership, company, corporation or agency, not connected with the performance of the Projects/Services.

6.11.2 Nothing furnished to A-E which is generally known among counties in Southern California shall be deemed confidential.

6.11.3 A-E and/or anyone acting under the supervision of A-E shall not use County name or insignia, photographs of the work, or any other publicity pertaining to the work in any magazine, trade paper, newspaper, or other medium without the express written consent of County.

6.12 Publication

6.12.1 No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by A-E and/or anyone acting under the supervision of A-E to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press contacts, including graphic display information to be published in newspapers, magazines, etc., are to be administered only after County approval.

6.12.2 The A-E agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this Contract or any subsequent amendment of, or effort under this Contract. A-E must first obtain review and approval of said media contact from the County through the County's Project Manager. Any requests for interviews or information received by the media should be referred directly to the County. A-E's are not authorized to serve as a media spokesperson for County projects without first obtaining permission from the County Project Manager.

6.13 Records and Audit/Inspections

6.13.1 A-E shall keep an accurate record of time expended by A-E and/or consultants employed by A-E in the performance of this Contract.

6.13.2 Within ten (10) days of County's written request, A-E shall allow County or authorized State or Federal agencies or any duly authorized representative to have the right to access, examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards or other records relating to this Contract.

6.13.3 A-E shall keep such material, including all pertinent cost accounting, financial records and proprietary data for a period of three (3) years after termination or completion of the Contract or until resolution of any claim or dispute between the Parties, whichever is later.

County of Orange, OC Public Works
Mark Thomas & Company, Inc.

6.13.4 Should A-E cease to exist as a legal entity, records pertaining to this Contract shall be forwarded within a reasonable period of time not to exceed sixty (60) days to its successor in interest or surviving entity in a merger or acquisition, or, in the event of liquidation, to County.

6.14 Notices

6.14.1 Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the Parties' project managers' routine exchange of information and cooperation during the Projects/Services.

6.14.2 Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt, or no greater than four (4) calendar days after being mailed by U. S. certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day.

6.14.3 All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

For A-E: Mark Thomas & Company, Inc.
2121 Alton Parkway, Suite 210
Irvine, CA 92606
Attn: Ravi Shah
Phone: 949-474-3575
E-mail: rshah@markthomas.com

For County: OC Public Works/ OC Infrastructure
601 N. Ross St.
Santa Ana, CA 92701
Attn: Austin Morgan
Phone: 714-647-3981
E-mail: Austin.Morgan@ocpw.ocgov.com

cc: OC Public Works Procurement Services
601 N. Ross St.
Santa Ana, CA 92701
Attn: Dana Varela
Phone: 714-667-8829
E-mail: Dana.Varela@ocpw.ocgov.com

6.15 Attorney's Fees

In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.

6.16 Interpretation

6.16.1 Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract.

6.16.2 In addition, each Party has been represented by experienced and knowledgeable

independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite having the opportunity to do so.

6.16.3 Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both.

6.16.4 Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived.

6.16.5 The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.

6.17 Headings

The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

6.18 Acceptance

Unless otherwise agreed to in writing by County acceptance shall not be deemed complete unless in writing and until all the services have actually been received, inspected, and tested to the satisfaction of County.

6.19 Changes

A-E shall make no changes in the work or perform any additional work without the County's specific written approval.

6.20 Assignment

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by A-E, by any means whatsoever including but not limited to acquisition by merger, without the express written consent of County. Any attempt by A-E to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

6.21 Changes in Ownership

A-E agrees that if there is a change or transfer in ownership, including but not limited to merger by acquisition, of A-E's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume A-E's duties and obligations contained in this Contract and to obtain the written approval of County of such merger or acquisition, and complete the obligations and duties contained in the Contract to the satisfaction of County. A-E agrees to pay, or credit toward future work, County's costs associated with processing the merger or acquisition.

6.22 Force Majeure

A-E shall not be assessed with damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act

of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided A-E gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and A-E avails himself of any available remedies.

6.23 Calendar Days

Any reference to the word “day” or “days” herein means calendar day or calendar days, respectively, unless otherwise expressly provided.

6.24 Title to Data

6.24.1 All materials, documents, data or information obtained from the County data files or any County medium furnished to the A-E in the performance of this Contract, will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the A-E after completion or termination of this Contract without the express written consent of the County.

6.24.2 All materials, documents, data or information, including copies furnished by County and loaned to A-E for his temporary use, must be returned to the County at the end of this Contract unless otherwise specified by the Director.

6.25 Availability of Funds

The obligation of County is subject to the availability of funds appropriated for this purpose, and nothing herein shall be construed as obligating the County to expend or as involving the County in any contract or other obligation for future payment of money in excess of appropriations authorized by law.

6.26 Contingency of Funding

A-E acknowledges that funding or portions of funding for this Contract may also be contingent upon receipt of funds from, and/or appropriation of funds by, the State of California or other funding sources to County. If such funding and/or appropriations are not forthcoming, or otherwise limited, County may immediately terminate or modify this Contract without penalty.

6.27 Contract Construction

The Parties acknowledge that each party and its counsel have reviewed this Contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract or any amendment or exhibits hereto.

6.28 Conflicts of Interest

6.28.1 A-E or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the “Act”), which (1) requires such persons to disclose any financial interest that may be materially affected by services provided under this Contract, (2) prohibits such persons from making, or participating in making, decisions that could reasonably affect such interest; and (3) may require the filing a Statement of Economic Interest (Form 700).

6.28.2 If subject to the Act, A-E shall conform to all requirements of the Act. Failure to do so shall constitute a material breach and is grounds for immediate termination of this

Contract by County. Pursuant to Section 4.1 "Indemnification", A-E shall indemnify and hold harmless County for any and all claims for damages resulting from Contractor's violation of this Section.

6.29 Usage

No guarantee is given by the County to A-E regarding usage of this Contract. The A-E agrees to supply services requested, as needed by the County of Orange, at prices listed in the Contract, regardless of quantity requested

6.30 Wage Rates

A-E shall post a copy of the wage rates at the job site and shall pay the adopted prevailing wage rates as a minimum. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the Board of Supervisors has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute this Contract from the Director of the Department of Industrial Relations. These rates are on file with the Clerk of the Board of Supervisors. Copies may be obtained at cost at the office of County's OC Public Works/OC Facilities & Asset Management/A&E Project Management or visit the website of the Department of Industrial Relations, Prevailing Wage Unit at www.dir.ca.gov/DLSR/PWD. The Contractor shall comply with the provisions of Sections 1774, 1775, 1776 and 1813 of the Labor Code.

6.31 Apprenticeship Requirements

The A-E shall comply with Section 230.1(A), California Code of Regulations as required by the Department of Industrial Relations, Division of Apprenticeship Standards by submitting DAS Form to the Joint Apprenticeship Committee of the craft or trade in the area of the site.

6.32 Registration of A-E

A-E and subconsultant must comply with the requirements of Labor Code Section 1771.1(a), pertaining to registration of contractors pursuant to Section 1725.5. Bids cannot be accepted from unregistered contractors except as provided in Section 1771.1. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. After award of the contract, A-E and each subconsultant shall furnish electronic payroll records directly to the Labor Commissioner in the manner specified in Labor Code Section 1771.4.

6.33 Payroll Records

6.33.1 A-E and any subconsultant(s) shall comply with the requirements of Labor Code Section 1776. Such compliance includes the obligation to furnish the records specified in Section 1776 directly to the Labor Commissioner in an electronic format, or other format as specified by the Commissioner, in the manner provided by Labor Code Section 1771.4.

6.33.2 The requirements of Labor Code Section 1776 provide, in summary:

A-E and any subconsultant(s) performing any portion of the work under this Contract shall keep an accurate record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by A-E or any subconsultant(s) in connection with the work.

- 6.33.3** Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
- a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code Sections 1771, 1811, and 1815 for any work performed by his or her employees in connection with the Contract.
- 6.33.4** The payroll records shall be certified and shall be available for inspection at the principal office of A-E on the basis set forth in Labor Code Section 1776.
- 6.33.5** A-E shall inform County of the location of the payroll records, including the street address, city and county, and shall, within five working days, provide a notice of any change of location and address of the records.
- 6.33.6** Pursuant to Labor Code Section 1776, A-E and any subconsultant(s) shall have 10 days in which to provide a certified copy of the payroll records subsequent to receipt of a written notice requesting the records described herein. In the event that A-E or any subconsultant fails to comply within the 10-day period, he or she shall, as a penalty to County, forfeit \$100, or a higher amount as provided by Section 1776, for each calendar day, or portion thereof, for each worker to whom the noncompliance pertains, until strict compliance is effectuated. A-E acknowledges that, without limitation as to other remedies of enforcement available to County, upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement of the California Department of Industrial Relations, such penalties shall be withheld from progress payments then due A-E. A-E is not subject to a penalty assessment pursuant to this section due to the failure of a subconsultant to comply with this section.
- 6.33.7** A-E and any subconsultant(s) shall comply with the provisions of Labor Code Sections 1771 et seq. and shall pay workers employed on the Contract not less than the general prevailing rates of per diem wages and holiday and overtime wages as determined by the Director of Industrial Relations. A-E shall post a copy of these wage rates at the job site for each craft, classification, or type of worker needed in the performance of this Contract, as well as any additional job site notices required by Labor Code Section 1771.4(b). Copies of these rates are on file at the principal office of County's representative, or may be obtained from the State Office, Department of Industrial Relations ("DIR") or from the DIR's website at www.dir.ca.gov. If the Contract is federally funded, Contractor and any subconsultant(s) shall not pay less than the higher of these rates or the rates determined by the United States Department of Labor.

6.34 Work Hour Penalty

Eight hours of labor constitute a legal day's work, and forty hours constitute a legal week's work. Pursuant to Section 1813 of the Labor Code of the State of California, the A-E shall forfeit to the County Twenty Five Dollars (\$25) for each worker employed in the execution of this Contract by the Contractor or by any subconsultant for each calendar day during which such worker is required or permitted to work more than the legal day's or week's work, except that work performed by employees of said A-E and subconsultants in excess of the legal limit shall be permitted without the foregoing penalty upon the payment of compensation to the workers for all hours worked in excess of eight hours per day of not less than 1-1/2 times the basic rate of pay.

6.35 Apprentices

- 6.35.1** The A-E acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code Section 1777.5, this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of the A-E to ensure compliance with this Article and with Labor Code Section 1777.5 for all apprenticeable occupations.
- 6.35.2** Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the A-E and any subconsultants under him employing workers in any apprenticeable craft or trade in performing any work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the A-E or subconsultant under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the work.
- 6.35.3** Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the A-E and any subconsultant under him may be required to make contributions to the apprenticeship program.
- 6.35.4** The A-E and all subconsultant under him shall comply with Labor Code Section 1777.6 which Section forbids certain discriminatory practices in the employment of apprentices.

6.36 Safety

A-E shall comply with [County's Safety and Loss Prevention Policy and Procedure #306](#) and submit a copy of its Injury and Illness Prevention Program (IIPP), and [Contractor Safety-Activity Checklist](#) to the County's Project Manager prior to the start of any work performed under this Contract. A-E will notify County Project Manager of any revisions to the Safety-Activity Checklist and will provide a new Safety-Activity Checklist upon County request. The IIPP shall comply with California Code of Regulations, Title 8, Section 1509 or 3203 (whichever applies). A-E shall submit other safety programs that pertain to the type of job that will be performed on site. County reserves the right to conduct inspections and audits as necessary for the purpose of evaluating any aspect of safety performance under this Contract.

7. REQUIRED FEDERAL PROVISIONS

The following are required federal clauses. In the event of a potential ambiguity between the federal clauses and the remainder of the Contract, County will be solely responsible for interpreting how to implement the Contract.

7.1 ALLOWABLE COSTS AND PAYMENTS

- A. A-E will be reimbursed for hours worked at the hourly rates, specified in the A-E's approved Cost Proposal. 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 performance period set forth in this Contract. A-E will be reimbursed within thirty (30) days upon receipt by County's Contract Administrator of itemized invoices in duplicate.
- B. In addition, A-E will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Contract.
- C. A-E shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. A-E is responsible for

- paying the appropriate rate, including escalations that take place during the term of the Contract.
- D. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. A-E will be responsible for transportation and subsistence costs in excess of State rates.
- E. When milestone cost estimates are included in the approved Cost Proposal, A-E shall obtain prior written approval in the form of a Contract amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- F. Progress payments will be made monthly in arrears based on services provided and actual costs incurred.
- G. A-E shall not commence performance of work or services until this Contract has been approved by County and notification to proceed has been issued by County's Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this Contract.
- H. A-E will be reimbursed within thirty (30) days upon receipt by County's Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under this Contract. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which A-E is billing, or upon approval of the PM. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Contract number and project title. Credits due County that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by A-E prior to the expiration or termination of this Contract. Invoices shall be mailed to County's Contract Administrator at the following address:
- County of Orange / OC Public Works
Accounts Payables
601 N. Ross St
Santa Ana, CA 92701
- I. The period of performance for services shall be in accordance with dates specified in the Contract term. No works shall be performed which extends beyond the expiration date of this Contract.
- J. The total amount payable by County for services shall not exceed the amount of the Contract, unless authorized by an executed amendment. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Contract.
- K. If A-E fails to satisfactorily complete a deliverable according to the schedule, no payment will be made until the deliverable has been satisfactorily completed.

7.2 TERMINATION

- A. This Contract may be terminated by County, provided that County gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, County shall be

entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

- B. County may temporarily suspend this Contract, at no additional cost to County, provided that A-E is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If County gives such notice of temporary suspension, A-E shall immediately suspend its activities under this Contract. A temporary suspension may be issued concurrent with the notice of termination.
- C. Notwithstanding any provisions of this Contract, A-E shall not be relieved of liability to County for damages sustained by City by virtue of any breach of this Contract by A-E, and City may withhold any payments due to A-E until such time as the exact amount of damages, if any, due City from A-E is determined.
- D. In the event of termination, A-E shall be compensated as provided for in this Contract. Upon termination, County shall be entitled to all work, including but not appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

7.3 COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

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

7.4 RETENTION OF RECORD/AUDITS

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

7.5 AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Contract that is not disposed of by Contract, shall be reviewed by County's Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, A-E may request a review by County's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by County will excuse A-E from full and timely performance, in accordance with the terms of this Contract.
- D. A-E and subconsultant Contracts, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, a Contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is A-E's responsibility to ensure federal, County, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The Contract, cost proposal, and ICR shall be adjusted by A-E and approved by County Contract Administrator to conform to the audit or review recommendations. A-E agrees that individual terms of costs identified in the audit report shall be incorporated into the Contract by this reference if directed by County at its sole discretion. Refusal by A-E to incorporate audit or review recommendations, or to ensure that the federal, County or local governments have access to CPA work papers, will be considered a breach of Contract terms and cause for termination of the Contract and disallowance of prior reimbursed costs.
- E. A-E's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the A-E and approved by the County Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the A-E to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the Contract terms and cause for termination of the Contract and disallowance of prior reimbursed costs.
 - 1. During IOAI's review of the ICR audit work papers created by the A-E's independent CPA, IOAI will work with the CPA and/or A-E toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, County will reimburse the A-E at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and

Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) -the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) -the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) -the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require A-E to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the A-E's and/or the independent CPA's revisions.
 3. If the A-E fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Contract.
 4. A-E may submit to County final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this Contract has been completed to the satisfaction of County; and, (3) IOAI has issued its final ICR review letter. The A-E MUST SUBMIT ITS FINAL INVOICE TO COUNTY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this Contract and all other Contracts executed between County and the A-E, either as a prime or subconsultant, with the same fiscal period ICR.

7.6 SUBCONTRACTING

- A. Nothing contained in this Contract or otherwise, shall create any contractual relation between the County and any Subconsultants, and no subcontract shall relieve the A-E of its responsibilities and obligations hereunder. The A-E agrees to be as fully responsible to the County for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the A-E. The A-E's obligation to pay its Subconsultants is an independent obligation from the County 's obligation to make payments to the A-E.
- B. The A-E shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the County Contract Administrator, except that which is expressly identified in the A-E's approved Cost Proposal.

- C. Any subcontract entered into as a result of this Contract, shall contain all the provisions stipulated in this entire Contract to be applicable to Subconsultants unless otherwise noted.
- D. A-E shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the A-E by the County.
- E. Any substitution of Subconsultants must be approved in writing by the County Contract Administrator in advance of assigning work to a substitute Subconsultant.
- F. Prompt Progress Payment

A-E or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed A-E on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from A-E or subconsultant to a subconsultant, A-E or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

- G. Prompt Payment of Withheld Funds to Subconsultants

The County may hold retainage from A-E and shall make prompt and regular incremental acceptances of portions, as determined by the County, of the contract work, and pay retainage to A-E based on these acceptances. The County shall designate one of the methods below in the contract to ensure prompt and full payment of any retainage kept by A-E or subconsultant to a subconsultant.

No retainage will be held by the County from progress payments due to A-E. A-E and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the County's prior written approval. Any violation of these provisions shall subject the violating A-E or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to A-E or subconsultant in the event of a dispute involving late payment or nonpayment by A-E, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

7.7 EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by County's Contract Administrator shall be required before A-E enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or A-E

services. A-E shall provide an evaluation of the necessity or desirability of incurring such costs.

- B. For purchase of any item, service, or consulting work not covered in A-E's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by County's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.
- C. Any equipment purchased with funds provided under the terms of this Contract is subject to the following:
 - 1. A-E shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, County shall receive a proper refund or credit at the conclusion of the Contract, or if the Contract is terminated, A-E may either keep the equipment and credit County in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established County procedures; and credit County in an amount equal to the sales price. If A-E elects to keep the equipment, fair market value shall be determined at A-E's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by County and A-E, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by County.
 - 2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

7.8 STATE PREVAILING WAGE RATES

- A. No A-E or Subconsultant may be awarded a Contract containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this Contract, including any subsequent amendments.
- B. The A-E shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this Contract are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this Contract by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at County construction sites, at County facilities and at off-site locations that are set up by the construction contractor or one of its subconsultants solely and specifically to serve County projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.

D. Payroll Records

1. Each A-E and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the A-E or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the A-E under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by County representatives at all reasonable hours at the principal office of the A-E. The A-E shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of County, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to County, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the A-E.
 - c. The public shall not be given access to certified payroll records by the A-E. The A-E is required to forward any requests for certified payrolls to the County Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each A-E shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by County shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the A-E or Subconsultant performing the work shall not be marked or obliterated.
5. The A-E shall inform County of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

6. The A-E or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the A-E or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to County, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by County from payments then due. A-E is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the A-E is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the County Contract Administrator.
- F. Penalty
1. The A-E and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the A-E and any Subconsultant shall forfeit to the County a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the Contract by the A-E or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the A-E or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the A-E or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the A-E or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the A-E or Subconsultant had knowledge of the obligations under the Labor Code. The A-E is responsible for paying the appropriate rate, including any escalations that take place during the term of the Contract.
 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the A-E or Subconsultant.
 4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime A-E of the project is not liable for the penalties described above unless the prime A-E had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime A-E fails to comply with all of the following requirements:
 - a. The Contract executed between the A-E and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.

- b. The A-E shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the A-E shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the A-E shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, County shall notify the A-E on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
 6. If County determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if County did not retain sufficient money under the Contract to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the A-E shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by County.

G. Hours of Labor

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

H. Employment of Apprentices

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

specific journey-to- apprentice ratios for the Contract work. The A-E is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

7.9 CONFLICT OF INTEREST

- A. During the term of this Contract, the A-E shall disclose any financial, business, or other relationship with County that may have an impact upon the outcome of this Contract or any ensuing County construction project. The A-E shall also list current clients who may have a financial interest in the outcome of this Contract or any ensuing County construction project which will follow.
- B. A-E certifies that it has disclosed to County any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Contract. A-E agrees to advise County of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Contract. A-E further agrees to complete any statements of economic interest if required by either County ordinance or State law.
- C. The A-E hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this Contract.
- D. The A-E hereby certifies that the A-E or subconsultant and any firm affiliated with the A-E or subconsultant that bids on any construction contract or on any Contract to provide construction inspection for any construction project resulting from this Contract, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

7.10 REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

7.11 PROHIBITION OF EXPENDING COUNTY, STATE, OR FEDERAL FUNDS FOR LOBBYING

- A. The A-E certifies, to the best of his or her knowledge and belief, that:
 - 1. No State, Federal, or County appropriated funds have been paid or will be paid, by or on behalf of the A-E, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this Contract, or with the extension, continuation, renewal, amendment, or modification of this Contract.
 - 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or

employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Contract, the A-E shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

7.12 NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The A-E's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the A-E has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR §8103.
- B. During the performance of this Contract, A-E and its subconsultants shall not deny the Contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. A-E and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. A-E and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by County to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this Contract by reference and made a part hereof as if set forth in full.
- D. A-E shall permit access by representatives of the Department of Fair Employment and Housing and the County upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or County shall require to ascertain compliance with this clause.

- E. A-E and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Contract.
- F. A-E shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Contract.
- G. The A-E, with regard to the work performed under this Contract, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The A-E shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the A-E shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. A-E, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the County components of the DBE Program Plan, A-E, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

7.13 DEBARMENT AND SUSPENSION CERTIFICATION

- A. The A-E's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the A-E or any person associated therewith in the capacity of owner, partner, director, officer or manager:
 - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - 3. Does not have a proposed debarment pending; and
 - 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to County. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

- C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

7.14 DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. A-E, subrecipient (County), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, The County shows a contract goal for DBEs. A-E shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

A-E shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is A-E's responsibility to verify that the DBE firm is certified as DBE at date of proposal opening and document the record by printing out the California Unified Certification Program (CUCP) data for each DBE firm. A list of DBEs certified by the CUCP can be found [here](#).

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

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.

Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

This Contract is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". A-Es who enter into a federally-funded Contract will assist the County in a good faith effort to achieve California's statewide overall DBE goal.

- B. The goal for DBE participation for this Contract is 15%. Participation by DBE A-E or subconsultants shall be in accordance with information contained in Exhibit 10-O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the Contract. If a DBE subconsultant is unable to perform, A-E must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. A-E can meet the DBE participation goal by either documenting commitments to DBEs to meet the Contract goal, or by documenting adequate good faith efforts to meet the Contract goal. An adequate good faith effort means that the A-E must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If A-E has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document

efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance

Under 49 CFR 26.13(b):

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

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

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

E. Termination and Substitution of DBE Subconsultants

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

The County authorizes a request to use other forces or sources of materials if A-E shows any of the following justifications:

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

A-E shall notify the original DBE of the intent to use other forces or material sources and provide the reasons and provide the DBE with 5 days to respond to the notice and advise A-E and the County of the reasons why the use of other forces or sources of materials should not occur.

A-E's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from A-E to the DBE regarding the request.
3. Notices from the DBEs to A-E regarding the request.

If a listed DBE is terminated or substituted, A-E must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

F. Commitment and Utilization

The County's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization. The County shall request A-E to:

1. Notify the County's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subconsultant
 - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business (see Exhibit 9-F *Monthly Disadvantaged Business Enterprise Payment*)

If A-E is a DBE A-E, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify A-E in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify A-E in writing of the certification date. A-E shall submit the notifications to the County. On work completion, A-E shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the County within 30 days of contract acceptance.

Upon work completion, A-E shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants and submit it to the County within 90 days of contract acceptance. The County will withhold \$10,000 until the form is submitted. The County will release the withhold upon submission of the completed form.

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

- G. A DBE is only eligible to be counted toward the Contract goal if it performs a commercially useful function (CUF) on the Contract. CUF must be evaluated on a Contract by Contract basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing, and other relevant factors.
- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its Contract with its own work force, or the DBE subcontracts a greater portion of the work of the Contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. A-E shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE A-E's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE subconsultant is decertified during the life of the Contract, the decertified subconsultant shall notify A-E in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify A-E in writing with the date of certification. Any changes should be reported to County's Contract Administrator within thirty (30) calendar days.
- L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/A-E shall complete and email the Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to the Agency.
- M. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.

7.15 INSURANCE

- A. Prior to commencement of the work described herein, A-E shall furnish County a Certificate of Insurance stating that there is general comprehensive liability

insurance presently in effect for A-E with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.

- B. The Certificate of Insurance will provide:
1. That the insurer will not cancel the insured's coverage without thirty (30) calendar days prior written notice to County.
 2. That County, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this Contract are concerned.
 3. That County will not be responsible for any premiums or assessments on the policy.
- C. A-E agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this Contract. In the event said insurance coverage expires at any time or times during the term of this Contract, A-E agrees to provide at least thirty (30) calendar days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the Contract, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of County. In the event A-E fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Contract upon occurrence of such event.

7.16 FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this Contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the Contract were executed after that determination was made.
- B. This Contract is valid and enforceable only if sufficient funds are made available to County for the purpose of this Contract. In addition, this Contract 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 Contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this Contract may be amended to reflect any reduction in funds.
- D. County has the option to terminate the Contract pursuant to Article VI Termination, or by mutual agreement to amend the Contract to reflect any reduction of funds.

7.17 CHANGE IN TERMS

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

- C. There shall be no change in A-E's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this Contract without prior written approval by County's Contract Administrator.

7.18 CONTINGENT FEE

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

7.19 DISPUTES

Prior to either party commencing any legal action under this Contract, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

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

7.20 INSPECTION OF WORK

A-E and any subconsultant shall permit County, the State, and the FHWA if federal participating funds are used in this Contract; to review and inspect the project activities and files at all reasonable times during the performance period of this Contract.

7.21 SAFETY

- A. A-E shall comply with OSHA regulations applicable to A-E regarding necessary safety equipment or procedures. A-E shall comply with safety instructions issued by County Safety Officer and other County representatives. A-E personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, County has determined that such areas are within the limits of the project and are open to public traffic. A-E shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. A-E shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

7.22 OWNERSHIP OF DATA

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

7.23 CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by County's construction contractor relating to work performed by A-E's personnel, and additional information or assistance from A-E's personnel is required in order to evaluate or defend against such claims; A-E agrees to make its personnel available for consultation with County's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. A-E's personnel that County considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from County. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for A-E's personnel services under this Contract.
- C. Services of A-E's personnel in connection with County's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Contract in order to resolve the construction claims.

7.24 CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to County's operations, which are designated confidential by County and made available to A-E in order to carry out this Contract, shall be protected by A-E from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by County relating to the Contract, shall not authorize A-E to further disclose such information, or disseminate the same on any other occasion.
- C. A-E shall not comment publicly to the press or any other media regarding the Contract or County's actions on the same, except to County's staff, A-E's own personnel involved in the performance of this Contract, at public hearings, or in response to questions from a Legislative committee.
- D. A-E shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this Contract without prior review of the contents thereof by County, and receipt of County's written permission.
- E. All information related to the construction estimate is confidential and shall not be disclosed by A-E to any entity, other than County, Caltrans, and/or FHWA. All of the materials prepared or assembled by A-E pursuant to performance of this Contract are confidential and A-E agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If A-E or any of its officers, employees, or subconsultants does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from A-E for any damages caused by A-E releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

7.25 NATIONAL LABOR RELATIONS BOARD CERTIFICATION

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

7.26 EVALUATION OF CONSULTANT

A-E's performance will be evaluated by County. A copy of the evaluation will be sent to A-E for comments. The evaluation together with the comments shall be retained as part of the Contract record.

7.27 PROMPT PAYMENT FROM THE COUNTY TO A-E

The County shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from A-E on a professional service contract. If the County fails to pay promptly, the County shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the County shall act in accordance with both of the following:

County of Orange, OC Public Works
Mark Thomas & Company, Inc.

(1) Each payment request shall be reviewed by the County as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.

(2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to A-E as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper

*County of Orange, OC Public Works
Mark Thomas & Company, Inc.*

MA-080-22011119

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates opposite their respective signatures:

MARK THOMAS & COMPANY, INC.,
a California Corporation,

Date: 3/10/2022

By: Robert Himes
Signature

Robert Himes, Vice President
Print Name & Title

(If a corporation, the document must be signed by two corporate officers. The 1st must be either Chairman of the Board, President or any Vice President.)

Date: 3/10/2022

By: Matt Brogan
Signature

Matt Brogan, Secretary
Print Name & Title

(If a corporation, the 2nd signature must be either the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer)

COUNTY OF ORANGE,
a political subdivision of the State of California

Date: _____

By: _____

Print
Name: _____

Title: _____

APPROVED AS TO FORM
Office of the County Counsel
Orange County, California

By: William Ninh

Print Name: William Ninh

ATTACHMENT A
SCOPE OF WORK

I. BACKGROUND

- A. A 2.7-mile gap in the 66-mile regional bikeway corridor, called the OC Loop, lies within the Coyote Creek flood control channel, upstream and downstream of the Santa Ana Freeway (I-5). This gap is designated as Segments O, P, and Q. The OC Loop Segments O, P, Q (proposed project) begins at the existing Coyote Creek Bikeway in the City of Cerritos where the flood channel divides into the north and east forks, and runs through the cities of La Mirada and Buena Park connecting to another portion of the existing Coyote Creek Bikeway at La Mirada Blvd./Malvern Ave. in the City of Buena Park. Coyote Creek winds in and out of LA/Orange County in the channel reach. The Los Angeles County Flood Control District (LACFCD) owns the vast majority of the property required for this project and the County of Orange operates and maintains the flood control channel right of way by agreement with LACFCD. Currently, it appears small property acquisitions by the County outside flood control right of way are likely necessary at La Mirada Blvd, Trojan Way, the BNSF railroad crossing and the UPRR rail crossing.
- B. When constructed, the Coyote Creek Class I Bikeway (Segments O, P, Q) will close the existing bikeway gap along OC Loop, increase the use of active transportation travel modes, enhance safety and mobility for non-motorized users, advance efforts to achieve greenhouse gas reduction goals, improve aesthetics, access and maintenance to the flood control channel, and enhance public health. In addition, the proposed project is a safety and mobility enhancement for the County, included in the 2008 Coyote Creek Bikeway Master Plan (Rivers and Mountains Conservancy and Trails4All), 2009 OCTA Commuter Bikeway Strategic Plan, 2012 OCTA Fourth District Bikeways Strategy report, 2014 County of Orange General Plan, and the 2015 OC Loop Gap Feasibility Study (OC Parks).

II. PROJECT DESCRIPTION:

The general project description consists of:

- A. A paved 12'-16' wide Class I asphalt bikeway section of approximately 2.7 miles along the Coyote Creek Flood Control channel. Appropriate fencing and water quality BMP's such as bioswale will be necessary.
- B. Underpasses at Valley View, Artesia Blvd, South Firestone, 5 Frwy, North Firestone and a BNSF spur railroad northeast of Knott Avenue.
- C. An at grade crossing at Knott Avenue.
- D. A prefabricated steel truss bridge spanning the Coyote Creek flood control channel North Fork.
- E. Prefabricated steel truss railroad bridges crossing UPRR near South Firestone and BNSF/Metrolink corridor near Stage Road (also crossing Stage Road). Retaining wall and bridge approach structures will be required.
- F. Ancillary facilities include but are not limited to; utilities removal/relocation, structural retaining walls, water quality BMP's, drainage conveyance work, tunnel lighting, fencing, very minor landscaping, hardscape, irrigation, handicapped access, and signage.

IMPORTANT PROJECT INFORMATION:

- A. Extensive pre-design engineering work for all crossings and coordination has been done with the cities, counties, Caltrans, USACE, BNSF, UPRR, CPUC, SRWCB, and CDFW on the scope

for the project. Concept approval for preliminary design of crossing elements has been obtained from the cities, the counties, CDFW, Caltrans, USACE and the Railroads/CPUC. The 401 water quality certification will be issued by the State Water Board since the project spans two Regional Boards. Coordination has not yet begun with the State Board or the Regional Water Quality Control Boards regarding the 401/NPDES permit for the project.

- B. This is a federally funded project utilizing grants from the Active Transportation Program; therefore, A-E will be required to meet Federal/Caltrans contracting requirements.
- C. Currently, Federal funding has been approved for Design of all three Segments and for Construction of Segment O only. A-E will be required to prepare complete PS&E Design packages for each of the three segments. Currently projects are programmed for Segment O design completion by 11/22, Seg P by 10/23 and Q by 9/24, but this may change with federal funding/agency approvals. A-E shall assume that all three design packages will be pursued and designed concurrently, noting that Segment O is relatively straight forward, but that Segments P & Q will require longer design timeframes to accommodate more extensive agency permitting, property acquisition and CPUC/railroad approvals. An optional design fee will be provided in the contract to allow sequential accomplishment of designs if construction funding for Segments P & Q lag.
- D. Although CEQA circulation and NEPA approval has been previously obtained, revisions for addressing USACE and BNSF/UPRR crossing preferences have required alteration with recirculated/revised CEQA/NEPA approvals anticipated to be complete by 11/21.
- E. Boundary, topographic CAD and field survey, including appurtenances, such as utilities and storm drain outlets will have been completed by 02/22 by County surveyors. Additional project field surveys as required for railroads, utility and geotechnical borings remains the responsibility of A-E. An optional design fee (contingency) will be provided for up to two weeks of supplemental survey during the design phase as noted in Task 10 below.

DESIGN SERVICES

A. Requirements

The work shall comply with the requirements of all the following without limitation, and shall apply to this RFP and any subsequent contract as though incorporated herein by reference:

1. Federal laws
2. State laws
3. Local laws
4. Rules and regulations of governing utility districts
5. Rules and regulations of other authorities with jurisdiction over the procurement of products and design

B. Services

1. In general, A-E design services are needed to perform the tasks noted below. All reports and/or studies, renderings and exhibits, plans and specifications, calculations, etc. developed by the A-E shall at a minimum comply with the County of Orange standards. Electronic file deliverables shall be in PDF (Portable Document Format), Microsoft (MS) Word, Microsoft (MS) Excel, and/or CAD (Computer Aided Design) [Autodesk AutoCAD 2018 format].

2. This scope of work should build upon and utilize, but not duplicate still-valid work and/or information previously prepared for or by the County of Orange. This information would include design memorandums and design reports and/or studies, CAD design files, funding application submittal packages, environmental reports, Caltrans bridge inspection reports, as-built plans, etc. developed for the Project. Below is a partial list of the reports, as-builts and/or studies as well as funding applications that are available or will become available.

- a. Topographic, field and boundary survey to be done, including digital terrain model (DTM), and provided by the County 2/22 in CAD format.
- b. As-builts for existing improvements including channel, roads, railroads, 5 frwy, etc. available upon request at design start.
- c. 25% concept drawings used initially for grant funding. Note that some Xing preferences have changed such as at the three railroads and Artesia Blvd. Review link.

<https://ocgov.box.com/s/sgw8k8cyugwpe3tl80srdno6xue8ul8k>

- d. ATP Cycle 5 Federal Funding Application/initial concept cost estimate. Review link. <https://ocgov.box.com/s/esk7mou8wjf4hxs0tk2nls5wcocnayeh>
- e. Circulated CEQA IS/MND for project. See Link.

<https://ocds.ocpublicworks.com/service-areas/oc-development-services/planning-development/current-projects/4th-district/oc-loop>

- f. Preliminary Design engineering deliverables listed below:

Please note that preferred alternatives that are now intended to be pursued in design are asterisked (*).

- i. *BTSR for 2 Prefab Steel Bridge Xing's (partially applicable, 1 bridge at Coyote Creek North Fork)
- ii. *Bridge #1 Installation Plan Seg O
- iii. Draft Bridge #6 Installation Plan Seg Q
- iv. *35% Valley View UC Plan & Profile
- v. *35% Artesia UC Plan & Profile - RCB Alternate
- vi. Draft 35% Artesia UC Plan & Profile - Cantilevered Bikeway Alt
- vii. Draft 65% Artesia UC Structural Plans Cantilever
- viii. Draft 65% Artesia UC Structural Quantities & Estimate
- ix. Draft 65% Artesia UC Structural Calculations 1 of 2
- x. Draft 65% Artesia UC Structural Calculations 2 of 2
- xi. Draft 35% UPRR UC Plan & Profile

- xii. *35% UPRR OC Plan & Profile (bridge)
 - xiii. Draft B TSR for UPRR UC Xing
 - xiv. *35% S. Firestone Open Cut to I-5 UC Plan & Profile
 - xv. *35% I-5 UC to Trojan Way At-Grade Xing Plan & Profile
 - xvi. *S. Firestone Open Cut & Trojan Way At-Grade Xing Report
 - xvii. *35% BNSF Industry Lead UC near Knott Ave.
 - xviii. *Revised Draft 35% BNSF/Stage OC Plan & Profile (Metrolink 3 track)
 - xix. 35% BNSF UC Plan & Profile
 - xx. Draft B TSR for BNSF UC Xing
 - xxi. 35% Typical Sections for UC Alternatives
 - xxii. Box-Jack Design Report
 - xxiii. *Geotech Report for Valley View & Artesia Under crossings
 - xxiv. *Geotech Report for RR Crossings
 - xxv. *Hydraulic Study using Army Corps flows for North Fork, Valley View and Artesia
 - xxvi. *Hydraulic Study using HC flows
 - xxvii. *Initial USACE 408 permit comments (exclude Artesia, now NA)
 - xxviii. *Truss Cost Comparisons
3. It is expected that the A-E will review, collaborate, and implement recommendations and measures based on the information from these documents into the design of the Project.
- Work assumed is as follows:
- a. Project Meetings
 - b. Summary Design Memorandum – serves as the Basis of Design, which includes project background, cost data, guidelines and criteria used for Design
 - c. Prepare final construction documents for each Segment (Plans, Special Provisions, and Estimates);
 - d. Provide bid phase & construction support;
 - e. Provide limited public outreach exhibit/participation support, if necessary.
4. All reports, drawings, and calculations shall be in English units, with deliverables in AutoCAD 2018 format or PDF format, when appropriate.

C. Task 1 – Project Meetings, Public Outreach

1. The A-E shall communicate as necessary to all parties in agreement with County to accomplish the tasks and shall arrange, attend, and conduct project meetings with the stakeholders as directed by the County of Orange staff to discuss project status, technical issues, schedules, and/or other details of the Project. The agenda and minutes of all the project meetings shall be prepared and documented by the A-E. The agenda shall be submitted to the attendees of the meeting at least five (5) working days prior to each meeting, while the minutes of the meeting shall be provided within five (5) working days following each meeting. The minutes of each meeting shall include a list of the action items and a project status matrix of the deliverables, which shall be updated prior to the subsequent follow-up meetings. Also, at the request of the County of Orange, the AE shall attend other meetings (off- or on-site) and/or presentations as needed to complete the terms of this scope of work. This task assumes that at a minimum, the A-E Project Manager of the Project will be made available to attend these occurrences at these requests with the appropriate staff.
2. During the development of the design of the Project, the A-E shall prepare and conduct one (1) 35% in-house Design Seminar presentation for internal County of Orange staff/stakeholders; and then followed by three (3) second project presentations at the 65% or 95% design completion, one for each of the three Segments individually as they progress. These presentations shall not only focus on the technical engineering design of the Project, but also discuss the current and foreseeable issues, complexities, and/or challenges with the implementation of the Project.
3. Furthermore, the A-E shall help coordinate, facilitate, and provide engineering design support for three (3) community public outreach meetings or assemblies along with developing and furnishing all the necessary materials and/or information packages, exhibits, etc. for these community meetings. Additional outreach support including the development of up to four (4) visualization graphics are included in contingency items as noted per Task 10 below.
4. Note that the County of Orange has a Strategic Communications team that leads the outreach effort and distributes project notifications. The A-E is expected to support and supplement this effort.
5. Due to the various aspects of the Project and its impact to the surrounding community and the public, the objective of these community and/or public outreach activities is to not only acquire support for the Project, but to also involve the community and the public in the development of the Project and to provide them with current and accurate information regarding the Project.

D. Task 2 – Review of Reports & Background information

1. The A-E shall review all still-valid work and/or information prepared for or by County, including design memorandums and design reports and/or studies, CAD design files, funding application submittal packages, environmental reports, Caltrans bridge inspection reports, as-built plans, etc. developed for the Project. A list of the reports and/or studies as well as funding applications that are available is provided above. The A-E shall build upon and utilize the reviewed background information in the development of the final design for the Project. Any major modifications to the design recommended by the A-E shall be discussed with the OCPW Project Manager prior to implementation.
2. Aside from reviewing the existing documentation and/or information for the Project, the A-E shall prepare a summary 35% Design Memorandum or Project Report (PR) prior to starting the 65% Plans, Specifications, & Estimate. The Project Report provides a preliminary design study of the Project including 35% drawings, easement parcel information, utility relocation

- plan and WQMP drafts) that discusses and/or identifies, but is not limited to, the following: the history and/or background relevant to the Project; the existing conditions of the facilities and/or features within the project limits; design alternative solutions considered; the appropriate design standards, regulations, and codes utilized; agreements, permits, and approvals required; community and/or public outreach requirements; environmental constraints and considerations; survey requirements; technical discussions and assessments (e.g. alignments (both vertical and horizontal), construction impacts, right-of-way and/or easements, utilities; geotechnical investigations, hydrology, hydraulics, etc.); preliminary cost estimation and funding for the improvements within the project limits; construction methods, schedules, and phasing for the Project; and current design assumptions, criteria, and recommendations based on the limitations and constraints of the Project.
3. Finalization of the Project Report includes, but is not limited to, completion, validation, and concurrence of the content within the PR and modification and/or revision to the content within the PR to correct any errors and/or oversights that were not originally considered. Prior to finalization of the PR, the A-E shall provide a draft copy of the final report to OCPW for review and commenting. The A-E shall incorporate all submitted and validated review modifications from OCPW into the final comprehensive Project Report.
 4. Furthermore, if approved as an optional addition, at 65% design completion, the A-E shall prepare a Project Report addendum memorandum that documents and summarizes design changes and/or additional design developments to the finalized PR.

E. Task 3 – Encroachment, Regulatory Permits, Utilities and /or Agreements

1. Although the County will take the lead on Permits, grant funding applications and utility contacts, A-E shall assist County staff with response to comments on permit applications (401, 404, 408 and 1600 initial applications already submitted), federal and other grant funding requirements and submittals requiring project manager’s input. (An exception will be the two (2) NPDES Permit submissions including WQMP/SWPPP that must be prepared and gain approval by A-E.) The A-E project manager shall also be prepared to answer questions or clarify the scope of the project when requested by various regulatory or utility agencies.
2. The A-E shall coordinate, facilitate, and provide engineering design support when assisting the County of Orange in the completion, submission, and processing of encroachment and regulatory permit applications and/or submittal packages to as well as in the development of encroachment and/or regulatory related agreements that are required for the Project with the appropriate agencies and/or parties. Note that the County of Orange has a Regulatory Permits, Utilities Division and Project Management team that will lead the submittal and coordination effort, but the A-E is expected to supplement this effort. The Project will require, but is not limited to, the following work related to encroachment and regulatory permits and/or agreements:
 - a. Final environmental clearance and/or permits (e.g.) from the appropriate regulatory agency and/or party (e.g. California Department of Fish and Wildlife (CDFW), USACE, CPUC, California State Water Resources Control Board (SWRCB), LARWQCB, SARWQCB, etc.);
 - b. No fee Encroachment permits from the Cities, Counties and Flood Control Districts;
 - c. Caltrans, LACFCD, BNSF, UPRR, etc. encroachment permits;
 - d. Limited Utility related permits and/or Railroad (UPRR and BNSF) agreements;

- e. Temporary access and/or partial property acquisitions required for temporary construction easements, temporary rights of entry, and right-of-way easements;
 - f. Support of any other permit or agreements required to complete the Project.
3. The A-E Project Manager shall be prepared and well-versed in answering questions and/or clarifying the scope of work of the Project to the appropriate governing authority or party and/or regulatory agency associated with the permit approval and/or agreement process.
 4. The A-E shall be prepared to provide additional Railroad and CPUC support, if necessary and upon authorization of Task 10 (contingency) by County Project Manager.

F. Task 4 – Prepare final construction documents (Plans, Special Provisions, and Estimates)

1. A-E shall not begin preparing final construction documents until after written direction from the County is provided. In compliance with the appropriate design criteria, standards, regulations, and codes, the A-E shall be responsible for the design and development, implementation, practicality, and quality of all direct and indirect work (i.e. sub-consultant design services) within the PS&E package, which includes, but is not limited to, the following major elements:
 - a. Prefabricated Steel Truss Bridge at confluence of Coyote Creek and Coyote Creek North Fork.
 - b. 12' wide asphalt bikeway, including fencing at various locations and drainage.
 - c. Valley View Blvd concrete underpass within flood control channel.
 - d. Artesia Blvd underpass adjacent to Channel.
 - e. UPRR railroad bridge overpass downstream of South Firestone Blvd.
 - f. South Firestone Blvd underpass tunnel.
 - g. I-5 Frwy/North Firestone underpass tunnel.
 - h. Knott Avenue signalized at-grade crossing.
 - i. BNSF spur undercrossing.
 - j. BNSF Metrolink/Lossan Corridor bridge overpass to include Stage Road.
 - k. La Mirada Blvd Class I bikeway to existing intersection and back
 - l. Utilities/storm drain removals/relocations.
 - m. Traffic Control plans and an optional (contingency) Traffic Management Plan as necessary per Task 10 below.
 - n. Water Quality Management Plan (WQMP) and BMP's.
 - o. Erosion control measures and Storm Water Pollution Prevention Plan (SWPPP).
 - p. Additional geotechnical work to support structural/WQ elements.

- q. Additional detailed survey work as necessary beyond boundary and topo
 - r. Optional (contingency) Certified Biologist As-Needed to support design and pre-construction efforts per Task 10 below.
 - s. Optional (contingency) Preparation of Architectural Historical Report as necessary per Task 10 below.
2. All designs, renderings and exhibits, plans and specifications, calculations, etc. developed by the A-E for the Project shall at a minimum comply with and/or be in accordance to the latest versions and/or editions at the time of the award of this contract for the following (although County may alter Caltrans standards for some elements).:
- a. Requirements within the encroachment and regulatory permits for the Project;
 - b. CEQA and/or NEPA (National Environmental Policy Act) requirements;
 - c. Orange County Highway Design Manual (OCHDM);
 - d. Orange County Traffic Manual (OCTM);
 - e. Orange County Hydrology Manual (OCHM);
 - f. Orange County Flood Control District Design Manual (OCFCDDM);
 - g. Orange County Public Works Standard Plans;
 - h. Standard Plans for Public Works Construction;
 - i. Standard Specifications for Public Works Construction (Greenbook);
 - j. Master Plan of Arterial Highways (MPAH);
 - k. Caltrans Standard Plans;
 - l. Caltrans Standard Specifications;
 - m. Caltrans Bridge Design Aids;
 - n. Caltrans Bridge Design Details;
 - o. Caltrans Bridge Design Specifications;
 - p. USACE standards,
 - q. LACFCD standards.
 - r. Joint UPRR/BNSF Bridge standards.
 - s. SCE Utilities Relocation standards.
 - t. Cities of Cerritos, La Mirada and Buena Park standards.
 - u. Standard Specification for Public Works Construction; and

- v. County supplements to APWA Standard Specification for Public Works construction.
3. The A-E shall develop 35% (as part of finalizing the Project Report), 65%, 95%, and 100% PS&E submittals. Refer to the attachments for and descriptions within this scope of work for a detailed definition of the requirements and content within the 35%, 65%, 95%, and 100% PS&E submittals.
 - a. **At 35%**, A-E shall provide the Project Report noted in Task 2, a design seminar presentation noted in Task 1, a memo discussing critical issues resolution request, as well as 35% drawings for the project.
 - i. Plans shall be computer drafted on standard 22" x 34" sheets using Autodesk AutoCAD. Street right-of-way PS&E shall be prepared in accordance with the County CAD Manual.
 - ii. A-E shall provide planned WQMP elements to begin RWQCB review and planned easement parcel information sufficient to begin easement acquisition.
 - iii. A-E shall complete geometric refinement and 3D modeling including three (3) focus meetings in the development of the 35% Plan and Profiles for the project. A-E to include a BTSR Memo for all of the structures and the development of General Plans and preliminary cost estimate.
 - b. **At 65%** project completion for the PS&E, the A-E shall prepare plans, specifications, calculations and estimates for the reviewing agencies and/or parties identified by OCPW.
 - i. Specifications (special provisions) shall be submitted in two forms, hidden text shown, and no hidden text shown.
 - ii. A-E shall prepare a draft set of Special Provisions per County format in hard copy and electronic file on MS Word for all items of work. All Special Provisions shall be based on the Standard Specifications for Public Works Construction ("Green Book") and/or as acceptable to Caltrans.

In addition, the A-E shall:

- iii. Perform a constructability review of the PS&E (65% project completion) for all aspects within this scope of work, which includes, but is not limited to, the following: accessibility for construction equipment; evaluation of traffic and roadway detouring issues and/or concerns; evaluation of inconvenience to local residents and businesses; construction phasing and sequential demolition due to the phasing of the Project; identification of conflicts related to easements and/or right-of-way, including utility relocations and/or abandonment; evaluation of the amount of construction activity within the channel; compliance with all environmental documentation and encroachment and/or regulatory permit requirements; conformance to all County of Orange standards, procedures, regulations, and codes. If major constructability conflicts and/or issues are discovered, modifications and/or revisions to the design, plans, specifications (special provisions), quantity calculations, and engineer's esti

- to all affected reports and/or documents, shall be made by the A-E as directed by the County of Orange and mutually agreed to by the A-E.
- iv. Investigate and prepare traffic, structural calculations for the construction of the bridges, tunnels, bikeway, road right-of-way and traffic control plans. Calculations performed shall be signed and stamped by the appropriate Registered Engineer for these specialties who is duly licensed by the State of California. All calculations shall be neat and orderly; and reference appropriate important formulas, assumptions and procedures used.
 - v. A-E shall be responsible for geotechnical borings, analysis and preparation of a Geotechnical Engineering Report and associated Draft and Final Foundation Reports for the development of pavement recommendations, water quality infiltration, bridges, tunnels and retaining walls. Reports shall be signed and stamped by the appropriate Registered Engineer licensed in the State of California.
 - vi. A-E shall update the hydraulics for Valley View based on design modifications including an update the previously prepared Hydraulics Report specific to Valley View. A-E will prepare site hydrology for the analysis of site hydraulics and for the development of 65% Drainage Plans.
 - vii. Along with the cost estimate, A-E is also responsible for preparing a set of Quantity Calculations. All bid items used in the construction cost estimate shall be described in the quantity calculations. Calculations shall be neat, orderly, and show required sketches, diagrams, and dimensions. The cover sheet of the Quantity Calculations shall be signed and stamped by a Registered Civil Engineer who is duly licensed in the State of California and in responsible charge of PROJECT.
 - viii. Reviewing party's and/or agency's request or direction regarding modifications or revisions to the PS&E (65% Complete) will be relayed to the A-E through County for incorporation. A-E shall respond to requests or direction as directed by County Project Manager.
 - ix. Upon receipt of the comments and recommended revisions to the PS&E (65% project completion) from OCPW, the A-E shall proceed with revising the plans, specifications (special provisions), design, quantity calculations, and engineer's estimate.
 - x. Upon completion of the PS&E (65% Complete), A-E shall distribute copies of plans, special provisions, and calculations thereof to reviewing parties and/or agencies identified by County.
- c. **At 95%**, the A-E shall prepare and submit plans, specifications and estimates and as well as final calculations as noted below.
- i. Along with the cost estimate, the A-E shall be responsible for preparing an updated set of quantity calculations for the Project. All bid items used in the engineer's estimate shall be incorporated and clearly described in all quantity calculations. These calculations shall be neat, orderly, legible, coherent, and complete, and show the required

sketches, diagrams, and dimensions used. The cover sheet of the quantity calculations shall also be signed and stamped by an active Registered Civil Engineer and/or Registered Structural Engineer, who is registered in the State of California and is in responsible charge of the Project.

- ii. The A-E shall prepare Cost Estimates using CALTRANS marginal estimate format, which includes all bid items described within the Special Provisions as noted above. The estimate shall use the same nomenclature and units of pay as indicated in the Special Provisions. The estimate shall reflect current Cost Data prices as described in publications used by County and CALTRANS. County understands that A-E has no control of the actual cost of construction or the successful bidder's method of pricing. A-E's cost estimate is made solely based on the A-E's qualifications and experience as a design professional. The A-E professional, registered Civil Engineer in responsible charge of Project, shall sign the cover sheet of the Cost Estimate.

Additional items required within the PS&E (95% project completion) include the following:

- iii. Letter to the Resident Engineer (RE), including any issues requiring the RE's attention ("Pending File") and items included in the Construction Package. The package and transmittal memo shall describe the Project, procedures, and the documents attached will be used by field personnel during construction.
- iv. Joint Movement Calculations sheet.
- v. Bridge/tunnel Calculations: Prepare and furnish to the County of Orange one copy of the bridge calculations using standard 3-ring binders.
- vi. Independent Check (Bridges/tunnels/tie-back wall excluding retaining walls): Prepare and furnish to the County of Orange one (1) copy of the independent check performed for the bridge calculations using standard 3-ring binders. All independent calculations shall be checked/confirmed, signed, and stamped by an active Registered Civil Engineer and/or Registered Structural Engineer, who is registered in the State of California and not involved with the original design. The independent checker shall re-analyze the structure and complete the following:
 - 1. Review all relevant background and supporting information, including, but not limited to geotechnical recommendations.
 - 2. Verify member capacities.
 - 3. Review plans for completeness and consistency with the design.
 - 4. Resolve design issues with the designer. The final design will reflect the agreement between the designer and the checker.
 - 5. Check the corrected plans for conformance with prior comments.

6. Review the Project specifications (special provisions) to ensure all improvements and associated items of work are adequately addressed.
 7. Quality Assurance / Quality Control (QA/QC) Statement & Plan: Prepare and furnish to the County of Orange and the appropriate agencies and/or parties, one (1) copy each of a QA/QC Statement and Plan as noted in the QA/QC Section.
- vii. Upon completion of the PS&E (95% Complete) and all calculations, A-E shall distribute copies thereof to reviewing parties and/or agencies identified by County. Reviewing parties and/or agencies request or direction regarding modifications or revisions to the PS&E (95% Complete) and structural calculations will be relayed to the A-E through County for incorporation. A-E shall respond to requests or direction of County.
 - viii. Upon receipt of comments and recommended revisions to the PS&E (95% Complete) from COUNTY and until after written direction from County, A-E shall proceed with revising the plan set, special provisions, design, and calculations for the final set **(100%)**.
- d. Other items required for the PS&E (100% Final) are:
- i. Construction Package/Pending File: The package and transmittal memo describing PROJECT, procedures, and documents attached will be used by field personnel during construction.
 - ii. Upon completion of the PS&E (Final) and structural calculations, A-E shall distribute hard copies thereof for the Construction team as required and identified by County.

G. Task 5 – Construction Support Services

1. The A-E will be retained on a Time and Materials (T&M) basis to provide construction support for the Project as described in Task 4, which includes the following work.
 - a. The A-E shall perform field visits, site meetings, and/or respond to any questions or comments requested by the Contractor that specifically relates to the design and/or construction of the Project (separate from Task 1).
 - b. The A-E shall review and take appropriate action upon OCPW supplied Requests for Information (RFIs) and Contract Change Orders (CCOs). The A-E's review and action taken shall be for conformance with the design concept and/or intent of the Project and based on the information within the contract documents (e.g. construction plans and specifications).
 - c. The A-E shall review and take appropriate action upon OCPW supplied submittals from the Contractor, which include, but are not limited to, shop drawings (including calculations), samples of construction material, material testing reports/certifications, and product data as required per the contract documents. The A-E's review and action taken shall be for conformance with the design concept and/or intent of the Project and based on the information within in the contract documents (e.g. construction plans and specifications). In addition, the A-E's review of any Contractor prepared drawings and/or documents shall not

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relieve the Contractor from their sole responsibility for the accuracy of the dimensions, quantities, calculations, and weights; the fabrication processes; the construction means and methods; the coordination between various trades; and the safety factors related to the construction of the Project.

- d. The A-E shall review and approve all scaffolding and/or falsework drawings, specifications, calculations, and submittals.
 - e. The A-E shall provide adjustments, modifications, and/or revisions to the design, based upon unanticipated and/or unknown field conditions encountered during the construction.
 - f. The A-E shall document and incorporate all constructed modifications and/or revisions that occurred during construction onto the original construction plans and specifications such that a final “as-built” or record set of contract documents are provided to OCPW for their records.
2. In the event that any items requiring interpretation of the final PS&E prepared by the A-E are discovered during the period in which the Project is being advertised for bids, those items shall be evaluated by the A-E for decision by the County of Orange as to the proper corrective procedure required to address the comments and/or issues. The corrective action taken will either be in the form of an addendum or bulletin prepared by the A-E and issued by the County of Orange or by a CCO after the award of the construction contract. In addition, it should be noted that while the Project is being advertised for bids, all questions and/or comments concerning the design concept and/or intent of the Project shall be referred to the County of Orange for a resolution. Furthermore, depending on the variation of the project bid proposals that are received during the bid phase, the A-E shall provide review assistance and evaluation of those project bid proposals for decision by the County of Orange.
3. A-E or its sub-consultant shall not perform any work related to this task without prior direction from County.

H. Task 6 – Project Administration

1. At the 35% Stage:

Deliverables:	No. of Copies
a. Project Report	electronic
b. 35% concept PowerPoint presentation for Design Seminar ..	electronic
c. Critical Issues requiring Resolution Memo	electronic
d. Confirmation of Req’ts for R/W, Utilities & BMP’s.....	electronic
e. Draft WQMPs plan.....	electronic
f. Easement parcel acquisition information.....	electronic
g. Utility relocation requirements.....	electronic

2. At the 65% Stage:

As a grant funded project, A-E will need to meet all formats and requirements of the federal and other grant agencies. A-E shall complete and distribute the PS&E (65% Complete) to reviewing parties and/or agencies identified by County. The submittal shall consist of plans, special provisions, and electronic files of each, in accordance with this Scope of Work. The submittal shall consist of an approximate level of 65% completion of the plans and special provisions.

Deliverables:	Est. No. Copies
a. 65% Plans (11x17 size).....	6

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b. 65% Plans (22x34 size).....	3
c. Draft Initial Cost Estimate	2
d. Draft Initial Quantity Estimate	2
e. Engineering Calculations geotech, structural, traffic.....	2
f. Draft special provisions (no hidden text shown).....	2
g. Draft special provisions (hidden text shown).....	2
h. Constructability review.....	2

A-E shall collect and transmit a copy of review comments received back to County for information and direction.

3. PS&E (95% Complete)

This submittal shall consist of plans, special provisions, structural calculations, quantity calculations, cost estimate, and electronic files in accordance with the provisions of this Scope of Work. This submittal shall be equivalent to 95% completion of the plans, special provisions, and estimates. A-E shall complete and distribute to the reviewing parties and/or agencies identified by County copies of this package.

Deliverables:	No. of Copies
a. 95% Plans (11x17 size).....	6
b. 95% Plans (22x34 size).....	2
c. 95% special provisions (hidden text shown)	3
d. 95% special provisions (no hidden text shown).....	2
e. 95% special provisions electronic (Word format)	1
f. 95% Design Calculations per task 4	2
g. 95% Quantity Calculations	2
h. 95% Cost Estimate.....	4
i. Third party independent and structural checks at bridges, tunnels & tieback wall at Artesia Blvd.....	2
j. WQMP & SWPPP	3

A-E shall collect and transmit a copy of review comments received back to the County for information and direction.

4. PS&E (Final)

This submittal shall consist of final plans on bond (photo type), Special Provisions, quantity calculations, cost estimate, electronic files, and design calculations in accordance with the provisions of this Scope of Work. This submittal shall be equivalent to 100% completion to this Scope, excluding SECTION III. Task 8. A-E shall complete and distribute to the parties and/or agencies identified by the County copies of this package.

Deliverables:	No. of Copies
a. Final Plans (11x17 size).....	15
b. Final Plans (22x34 size copies)	4
c. Final special provisions	15
d. Final Design & Check Calculations.....	2
e. Final Quantity Calculations	2
f. Final Engineers Estimate	2
g. CAD design files (AutoCAD 2018)	1

I. Quality Assurance/Quality Control (QA/QC) Plan

1. A QA/QC program may vary depending on the size and complexity of PROJECT. The comprehensiveness and structure of a corporate QA/QC plan may vary significantly by individual firm. Therefore, development of a QA/QC plan is the responsibility of A-E, subject

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to their plan meeting, Caltrans requirements, and the general minimum specifications that follow:

- a. The QA/QC plans shall be submitted to County for approval. The submittal shall be an early item of work and will be item-identified on the PROGRESS WORK SCHEDULE.
 - b. The QA/QC plan shall be specific to the project and may include organizational elements already in place within A-E’s organization.
 - c. The QA/QC plan shall define design guidelines and identify standard criteria to be used.
 - d. The QA/QC plan shall include regular meeting and their frequency (as defined in the agreement) with County staff and minutes of the meetings shall be prepared by A-E.
 - e. The QA/QC plan shall identify PROJECT milestones, and approval process for each milestone, where A-E’s work must go through the QA/QC process before proceeding to the next milestone. (For example, on a bridge PS&E contract: select bridge type, etc.)
 - f. The QA/QC plan shall assure a high degree of involvement of the A-E and shall assure that the engineer signing the plans meets the definition of “responsible charge” in the Professional Engineer Act.
 - g. The QA/QC plan shall name a Registered Civil Engineer and/or Registered Structural Engineer, who is duly licensed by the State of California, responsible for QA/QC
 - h. The QA/QC plan shall assure that submittals are checked and shall name a person responsible for checking. Checking shall include the following:
 - i. Verification that criteria and manuals have in fact been followed and the identification of any deviations and any resolutions
 - ii. Identification of all proposed deviations from County and CALTRANS criteria and manuals and their resolution
 - iii. Check of structural calculations and geometric calculations (separate from the independent check otherwise specified herein)
 - iv. Verification that quantities are accurate.
2. QA/QC is integral to all the tasks of this Scope of Work. In delivering a quality product on schedule and within budget, it is presumed each task is included in the overall QA/QC process. Therefore, the fee for each task within this Scope of Work shall include QA/QC and there shall be no separate pay item for QA/QC.

Deliverables:	No. of Copies
a. QA/QC Plan.....	3

3. Corrections to the Plans, Specifications, Special Provisions, Quantity Calculations, Engineer’s Estimate and Design are anticipated and shall be considered as part of the normal design

process. No extension of time or fees shall be allowed for corrections as described herein above.

J. Task 7 – Utilities

1. The A-E shall coordinate, facilitate, and provide engineering design support when assisting the County of Orange in the request, research, and the relocations/abandonment of the existing utilities within the project limits, including drainage structures, as well as in the development of utility related agreements with the appropriate utility agencies and/or parties. Due to the number of utility agencies and/or parties involved as well as the significant number of impacted utilities within the project limits, the A-E shall develop and maintain an updated and comprehensive utilities matrix that tracks the design process of the utilities including its abandonment and/or relocation. This tracked information will be made available to the representative of the agency and/or party associated with the utility for both coordination and budgeting purposes. The A-E shall prepare and/or furnish all the necessary materials and/or information, exhibits, etc. required for the utility's aspect of the Project. County shall provide and coordinate Utility notifications and provide A-E with As-Builts as available and all coordination records. A-E to prepare utility base mapping based on As-Builts provided by the County. In addition, the A-E shall be made available and be prepared to facilitate and/or attend coordination meetings and/or presentations related to the utilities within the Project with the appropriate staff.
2. Furthermore, at 35% design completion, the A-E shall have reviewed the pre-design documents and validated/confirmed all impacted utilities within the project limits and shall ensure that a viable solution has been established to address these conflicts (i.e. relocation and/or abandonment) as well as ensuring that all required utility relocation and/or abandonment permits and/or agreements with the appropriate utility agencies and/or parties will be completed prior to 95% design completion. In the event that there are any conflicts and/or issues with the utilities that were previously identified during the development of the final design, the A-E shall immediately notify the County of Orange staff for a resolution.
3. See Exhibit "28" for a table of Potential Utility Conflict Identifications for OC Loop Segment O, P & Q, Pre-Engineering Stage.

A-E to provide potholing support to the County for the development of a pothole exhibit to be used by the County potholing contractor, and, if directed, per the Contingency items noted per Task 10 perform up to fifty (50) potholes.

4. A-E to provide Utility Agreement Support as an additional optional (contingency) support item as needed by the County upon authorization per Task 10.

K. Task 8 - Right-of-Way

Fortunately, it appears there will be only be limited right of way acquisition required for this project, in one to five private property locations and three public agency locations.

1. The County will lead, however, the A-E shall coordinate, facilitate, and provide engineering design support when assisting the County of Orange in the procurement of temporary access and/or partial property acquisitions for temporary construction easements, temporary rights of entry, and right-of-way easements that are required for the Project, as well as in the development of easement, right of entry, and/or right-of-way related agreements with the appropriate agencies and/or parties. The A-E shall prepare and/or furnish all the necessary materials and/or information, exhibits, etc. required for the right-of-way aspect of the Project. In addition, the A-E shall be made available and be prepared to facilitate and/or attend

coordination meetings and/or presentations related to right-of-way within the Project with the appropriate staff.

2. Furthermore, at 35% design completion, the A-E shall have identified and confirmed all easements, rights of entry, and/or right-of-way required for the Project and shall help County ensure that all required right-of-way acquisitions, permits, and/or agreements with the appropriate agencies and/or parties will be completed prior to 95% design completion. In the event that there are any discrepancies and/or issues with the easements, rights of entry, and/or right-of-way that were previously identified during the development of the final design, the A-E shall immediately notify the County of Orange staff for a resolution.

L. Task 9 - Water Quality Management Plan (WQMP) & SWPPP

1. The A-E shall develop one Water Quality Management Plan (WQMP) for the Project as required by the Orange County NPDES (National Pollutant Discharge Elimination System) Municipal Separate Storm Sewer System (MS4) Permit from the Santa Ana Regional Water Quality Control Board (SARWQCB) and a second for the LARWQCB for the portions within LA County. The WQMPs shall adhere to and satisfy all the requirements stated within the MS4 permit including the incorporation of Low Impact Development (LID) Best Management Practices (BMPs) (e.g. retention and/or bio-treatment of storm water runoff, etc.) among others. The development of the final design shall incorporate these water quality facilities and/or features (i.e. BMPs) and ensure that they function and complement the intent of the Project while also meeting the requirements and guidelines of the County Model WQMP and the Technical Guidance Document (TGD). Any additional right-of-way needs required for permanent establishment of the BMPs shall be brought to the attention of the County of Orange immediately, and no later than 35% design completion.
2. A-E shall also be required to include a set of Erosion Control/BMP drawings that show the intent and requirements of the WQMPs
3. In compliance with Federal & State environmental regulations, A-E and its sub-consultants shall be responsible for all direct and related work in preparing the WQMP and resolving design issues to obtain approval and comply with the County provided NEPA, CEQA, regulatory permit applications, environmental technical documents and other environmental agency requirements. USEPA Green Street guidelines shall be utilized where possible as well.
4. A-E will also be required to develop a SWPPP per OC guidelines for construction contractor.

Deliverables:	No. of Copies
a. OCRWQCB WQMP.....	3
b. LARWQCB WQMP (LID).....	3
c. SWPPP.....	3
d. Erosion Control/BMP drawings	3

M. Task 10 – Contingency

The A-E shall include a contingency in each CTO Proposal for unforeseen issues that would require additional work necessary to complete the CTO. This may include, but is not limited to: preparation of additional exhibits, additional meetings to review and address comments, additional memorandum to support the findings, increased project schedule times, re-design due to updates to design requirements and/or environmental requirements, etc. Utilization of the contingency shall be provided on an as-needed basis and must have prior written authorization by OCPW.

ATTACHMENT B
COST/COMPENSATION

- I. **COMPENSATION:** This is a **time and materials** Contract between County and A-E for **OC Loop Segment O, P & Q Coyote Creek Channel (A01)** as set forth in Attachment A, "Scope of Work".

A-E agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, vehicles, equipment, tools, materials, overhead, travel, etc. required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by A-E of all its duties and obligations hereunder. A-E shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. **County shall have no obligation to pay any sum in excess of the amount specified in Article 1.4 of the Contract unless authorized by amendment in accordance with Paragraphs 6.3 and 6.19 of the County Contract Terms and Conditions.**

- II. **PRICING:** Payment shall be made in accordance with the provisions of this Contract. Partial progress payments may be allowed at the discretion of the County Project Manager. Payment shall be as follows:

A. **Classification Rates:**

MARK THOMAS & COMPANY, INC. ICR 151.93%, Fee 10%, 3% Inresse/Year					
Classification Titles	Year 1	Year 2	Year 3	Year 4	Year 5
Principal	\$300.00	\$309.00	\$318.27	\$327.82	\$337.65
Sr. Engineering Manager	\$299.00	\$307.97	\$317.21	\$326.72	\$336.52
Engineering Manager	\$259.00	\$266.77	\$274.77	\$283.02	\$391.51
Sr. Project Manager	\$238.99	\$246.16	\$253.55	\$261.15	\$268.99
Project Manager	\$195.01	\$200.86	\$206.89	\$213.09	\$219.49
Sr. Technical Lead	\$234.00	\$241.02	\$248.25	\$255.70	\$263.37
Technical Lead	\$195.01	\$200.86	\$206.89	\$213.09	\$219.49
Sr. Project Engineer	\$167.99	\$173.03	\$178.22	\$183.57	\$189.08
Project Engineer	\$147.01	\$151.42	\$155.97	\$160.65	\$165.47
Design Engineer II	\$128.00	\$131.84	\$135.80	\$139.87	\$144.07
Design Engineer I	\$105.00	\$108.15	\$111.40	\$114.74	\$118.18
Intern	\$60.00	\$61.80	\$63.65	\$65.56	\$67.53
Technician	\$87.99	\$90.63	\$93.34	\$96.15	\$99.03
Sr. Technician	\$130.00	\$133.90	\$137.92	\$142.05	\$146.31
Survey Manager	\$199.00	\$204.97	\$211.12	\$217.45	\$223.98
Sr. Survey Manager	\$223.00	\$229.69	\$236.58	\$243.68	\$250.99
Project Surveyor	\$162.01	\$166.87	\$171.87	\$177.03	\$182.34
Sr. Project Surveyor	\$177.00	\$182.31	\$187.78	\$193.41	\$199.21
Sr. Surveyor	\$139.00	\$143.18	\$147.47	\$151.89	\$156.34
Surveyor	\$119.00	\$122.57	\$126.24	\$130.03	\$133.93
Sr. Survey Technician	\$118.00	\$121.54	\$125.19	\$128.94	\$132.81
Lead Survey Technician	\$147.01	\$151.42	\$155.97	\$160.65	\$165.47
Survey Technician	\$90.01	\$92.71	\$95.49	\$98.36	\$101.31
LAUD Division Manager	\$231.01	\$237.94	\$245.08	\$252.43	\$260.00
Sr. LAUD Project Manager	\$217.18	\$223.70	\$230.41	\$237.32	\$244.44
LAUD Project Manager	\$189.00	\$194.67	\$200.51	\$206.52	\$212.72
Landscape Architect	\$132.99	\$136.98	\$141.09	\$145.32	\$149.68
Landscape Designer I	\$84.99	\$87.54	\$90.17	\$92.87	\$95.66

Landscape Designer II	\$106.00	\$109.18	\$112.45	\$115.83	\$119.30
Project Accountant	\$113.01	\$116.40	\$119.89	\$123.49	\$127.19
Sr. Project Accountant	\$165.00	\$169.95	\$175.05	\$180.30	\$185.71
Project Coordinator	\$103.01	\$106.10	\$109.28	\$112.56	\$115.93
Sr. Project Coordinator	\$130.00	\$133.90	\$137.92	\$142.05	\$146.31
Sr. Graphic Manager	\$154.99	\$159.64	\$164.43	\$169.37	\$174.45
Graphic Designer	\$113.01	\$116.40	\$119.89	\$123.49	\$127.19
Sr. Graphic Designer	\$133.99	\$138.01	\$142.15	\$146.41	\$150.81

*Subconsultant- Civil Works Engineering (Meetings, Permit Support, WQMP, LID, SWPPP)					
ICR 186.7%, Fee 10%, 3% Incesse/Year					
Classification Titles	Year 1	Year 2	Year 3	Year 4	Year 5
Principal	\$281.91	\$290.37	\$299.08	\$308.05	\$317.27
Project Manager	\$227.63	\$234.46	\$241.50	\$248.75	\$256.21
Project Engineer	\$187.20	\$192.82	\$198.60	\$204.56	\$210.69
Staff Engineer	\$137.47	\$141.59	\$145.84	\$150.22	\$154.72
CAD Designer	\$85.62	\$88.19	\$90.84	\$93.57	\$96.37
Project Coordinator	\$137.00	\$141.30	\$145.54	\$149.91	\$154.40
Admin Assistant	\$91.14	\$93.88	\$96.69	\$99.59	\$102.58

*Subconsultant- Earth Mechanics, Inc. (Geotechnical Engineering/Laboratory Testing)					
ICR 178.96%, Fee 10%, 3% Incesse/Year					
Classification Titles	Year 1	Year 2	Year 3	Year 4	Year 5
Principal	\$236.10	\$243.18	\$150.48	\$257.99	\$265.73
Principal Engineer	\$261.98	\$269.83	\$277.93	\$286.27	\$294.86
Sr. Project Geologist	\$164.14	\$169.06	\$174.13	\$179.36	\$184.74
Project Engineer	\$140.69	\$144.91	\$149.26	\$153.74	\$158.35
Sr. Staff Engineer	\$130.67	\$134.59	\$138.63	\$142.79	\$147.07
Senior Technician	\$139.07	\$143.25	\$147.54	\$151.97	\$156.53

*Subconsultant- LIN Consulting, Inc. (Lighting)					
ICR 116.9%, Fee 10%, 3% Incesse/Year					
Classification Titles	Year 1	Year 2	Year 3	Year 4	Year 5
Principal	\$200.42	\$210.44	\$220.96	\$232.01	\$243.61
Senior Project Manager – Mohammad Qureshi	\$178.94	\$187.89	\$197.28	\$207.15	\$217.51
Senior Project Manager – John Merrill	\$162.24	\$170.35	\$178.87	\$187.81	\$197.21
Senior Project Manager	\$167.01	\$175.36	\$184.13	\$193.34	\$203.01
Project Manager	\$143.15	\$150.31	\$157.83	\$165.72	\$174.00
Senior Project Engineer	\$133.61	\$140.29	\$147.31	\$154.67	\$162.40
Assistant Project Manager	\$103.79	\$108.98	\$114.42	\$120.15	\$126.15
Project Engineer	\$81.12	\$85.15	\$89.44	\$93.91	\$98.60
Assistant Engineer	\$62.03	\$65.14	\$68.39	\$71.81	\$75.40

*Subconsultant- NCM Engineering Corp (Structures Lead, Bridge and Structural Design, Reporting, PS&E Development, Bid and Construction Support)					
ICR 103.42%, Fee 10%, 3% Increase/Year					
Classification Titles	Year 1	Year 2	Year 3	Year 4	Year 5
Structures Design/Senior PM	\$302.08	\$302.08	\$302.08	\$302.08	\$302.08
Structures Lead/Associate VP	\$184.60	\$190.14	\$195.85	\$201.73	\$207.78
Structures Design/Senior Bridge Engineer – Lalit Maharjan	\$151.04	\$155.57	\$160.24	\$165.05	\$170.00
Structures Design/Senior Bridge Engineer – David Kim	\$135.38	\$139.44	\$143.62	\$147.93	\$152.37
Structures Design/Associate Bridge Engineer	\$114.12	\$117.54	\$121.07	\$124.70	\$128.44
Structures Design/Project Management	\$132.02	\$135.98	\$140.06	\$144.26	\$148.59
Structures Design/Assistant Bridge Engineer – Kevin Zhu	\$82.79	\$85.28	\$97.83	\$100.76	\$103.79
Structures Design/Assistant Bridge Engineer – Amanda Jones	\$69.37	\$71.45	\$73.59	\$75.80	\$78.07
Structures CADD/Senior CADD Designer	\$128.10	\$131.95	\$135.91	\$139.99	\$144.19
Senior Project Engineer	\$145.20	\$145.20	\$145.20	\$149.56	\$154.04
Project Engineer	\$115.24	\$115.24	\$115.24	\$118.70	\$122.26
Senior Civil Engineer	\$162.23	\$167.09	\$172.11	\$177.27	\$182.59
Senior Bridge Engineer	\$149.92	\$154.42	\$159.05	\$163.82	\$168.74
Engineer III/Associate Engineer	\$118.59	\$122.15	\$125.82	\$129.59	\$133.48
Engineer II	\$93.98	\$96.80	\$99.70	\$102.69	\$105.77
Engineer I/Assistant Engineer	\$73.84	\$76.06	\$78.34	\$80.69	\$83.11
Senior CADD Designer	\$119.85	\$123.44	\$127.15	\$130.96	\$134.89
CADD Designer	\$89.50	\$92.19	\$94.96	\$97.81	\$100.74
QA/QC Engineering	\$201.39	\$207.43	\$213.65	\$220.06	\$226.66

*Subconsultant- Q3 Consulting (Hydraulics)					
ICR 166.07%, Fee 10%, 3% Increase/Year					
Classification Titles	Year 1	Year 2	Year 3	Year 4	Year 5
Principal	\$266.54	\$279.87	\$293.86	\$308.55	\$323.98
Senior Technical Manager	\$246.23	\$258.54	\$271.47	\$285.04	\$299.29
Senior Project Engineer	\$147.74	\$155.13	\$162.89	\$171.03	\$179.58
Project Engineer	\$125.59	\$131.87	\$138.46	\$145.38	\$152.65
Design Engineer	\$87.80	\$92.19	\$96.80	\$101.64	\$106.73

*Subconsultant- Rail Surveyors and Engineers, Inc. (Structures, Surveying/Mapping, Permitting)					
ICR 125.04%, Fee 10%, 3.5% Increase/Year					
Classification Titles	Year 1	Year 2	Year 3	Year 4	Year 5
Project Manager	\$246.31	\$254.93	\$263.85	\$273.08	\$282.64
Engineering Lead	\$246.31	\$254.93	\$263.85	\$273.08	\$285.64
Structures Lead	\$246.31	\$254.93	\$263.85	\$273.08	\$282.64
Engineer III – William Doran	\$236.40	\$244.68	\$253.24	\$262.11	\$271.28
Engineer II – Naresh Patel	\$191.23	\$197.92	\$204.85	\$212.02	\$219.44
Survey/ROW Manager – Cody Festa	\$204.84	\$212.01	\$219.43	\$227.11	\$235.06

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Survey/ROW Manager – James Drenon	\$194.92	\$201.74	\$208.80	\$216.11	\$223.67
Contract Admin/Project Controls – Ivan Lai	\$185.66	\$192.16	\$198.88	\$205.84	\$213.04
Engineer III	\$246.31	\$254.93	\$263.85	\$273.08	\$282.64
Engineer II	\$179.47	\$185.75	\$192.25	\$198.98	\$205.94
Engineer I	\$117.58	\$121.70	\$125.96	\$130.37	\$134.93
Technician – CADD	\$99.02	\$102.48	\$106.07	\$109.78	\$113.62
Engineer Technician III	\$198.04	\$204.97	\$212.14	\$219.57	\$227.25
Engineer Technician II	\$142.34	\$147.32	\$152.48	\$157.81	\$163.33
Engineer Technician I	\$99.02	\$102.48	\$106.07	\$109.78	\$113.62
Contract Admin/Project Controls	\$173.28	\$179.35	\$185.62	\$192.12	\$198.84

Note: County will not pay A-E more than the listed amount for Sub-Contractor work, regardless of any agreement between the A-E and their Sub-Contractor. Sub-Contractor rates are listed for convenience only.

Note: Construction-related work performed under A-E service contracts may meet the definition of “public work” under Labor Code § 1720 et seq. “Construction” includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. See, Labor Code § 1720. Contracts for A-E services shall mandate that prevailing wages be paid where mandated by law.

- III. PRICE INCREASES/DECREASES:** No price increases will be permitted during the term of this Contract. All price decreases will automatically be extended to County.
- IV. FIRM DISCOUNT AND PRICING STRUCTURE:** A-E guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. A-E agrees that no price increases shall be passed along to County during the term of this Contract not otherwise specified and provided for within this Contract.
- V. A-E’S EXPENSE:** A-E will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.
- VI. REIMBURSABLE ITEMS:** Reimbursable items are non-salary items that are not included in the Scope of Work but necessary for completion of the work and must be authorized in advance by the County Project Manager. A-E may be entitled to reimbursement for the following, upon prior approval by County:
- 1) The actual costs of special equipment to be rented, leased or purchased by A-E for use exclusively in the performance of the Scope of Services, to the extent such rental, lease, purchase and costs have been approved in writing by the County Project Manager.
 - 2) Printing expenses paid to outside contractors; to the extent such contractors and reproduction rates have been approved by the County Project Manager.
 - 3) Other actual costs and/or payments specifically approved and authorized in writing by the County Project Manager and actually incurred by A-E in performance of this Contract.
 - 4) Travel costs shall only be reimbursed if approved in advance in writing by County Project Manager and are subject to the following restrictions:

- a) Reimbursement of mileage for the business use of a personal vehicle during the conduct of business within the Scope of Services of this Contract shall be based on the Internal Revenue Service Standard Mileage Rate in effect at the time. Mileage between the A-E's "Home Based" office location and County location, as well as mileage within County property will not be reimbursed.
- 5) Cost of "Home Based" Xerox copies, faxes, and other supplies and materials associated with them will not be reimbursed.
- 6) Cost of cellular phones, cell phone usage plans and usage minutes, and other mobile communication devices will not be reimbursed.
- 7) All reimbursable expenses must be itemized on A-E invoice(s) and documented with receipts. Receipts for reimbursable expenses must be submitted with all A-E invoices. Invoices for reimbursable expenses without back-up receipts will not be paid. A-E is responsible for submitting reimbursable invoices in a format that is acceptable to the County. Reimbursable items shall be charged at cost. Any third-party or subconsultant services shall also be charged at cost; no mark-ups will be allowed.

VII. PAYMENT TERMS: Invoices are to be submitted in monthly arrears, after services have been completed, to the address specified below. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to the County, as applicable. Invoices shall be verified and approved by County and subject to routine processing requirements. The responsibility for providing an acceptable invoice to County for payment rests with A-E. Incomplete or incorrect invoices are not acceptable and will be returned to the A-E for correction.

Billing shall cover services and/or goods not previously invoiced. The A-E shall reimburse the County for any monies paid to the A-E for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by County shall not preclude the right of County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

VIII. INVOICING INSTRUCTIONS: The A-E will provide an invoice on the A-E's letterhead. Each invoice will have a unique number and will include the following information:

- A. A-E's name and address
- B. A-E's remittance address, if different from (A), above
- C. Name of County agency/department
- D. Delivery/service address
- E. Contract number
- F. Service Date
- G. Description of Services
- H. Total
- I. Taxpayer ID number

Invoices and support documentation are to be forwarded to:

OC Public Works
 Attn: Accounts Payable
 601 N. Ross Street, 4th Floor
 Santa Ana, CA 92701

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Mark Thomas & Company, Inc.

A-E has the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive Electronic Remittance Advice with the payment details via email. An email address will need to be provided to the County via an EFT Authorization Form. To request a form, please contact the DPA.

ATTACHMENT C
STAFFING PLAN1. A-E KEY PERSONNEL

Name	Classification/Designation	Years of Experience	Licenses/Certifications (include license number)
Ravi Shah	Project Manager	14	Civil Engineer (C79183)
Rob Himes	Project Director	35	Civil Engineer (C45787)
Trisha Keith	Design Engineer/Civil Lead	23	Civil Engineer (C62490)
Mark Stiller	Structural Engineer/Structures Lead	15	Civil Engineer (C75935)
Pat Somerville	Third Party Coordination Lead	35	Civil Engineer (C56141)
Paul Martin	Bike/Pedestrian Lead	22	(Civil Engineer (C65868), TE (TR2315)
William Doran	BNSF/UPRR/Metrolink Coordination	38	Civil Engineer (C40643)
Michelle Tollet	Designated Biologist	21	N/A

A-E understands that the personnel represented as assigned to the Contract must remain working on the Contract throughout the duration of the Contract unless otherwise requested or approved by the County. Substitution or addition of A-E's key personnel in any given category or classification shall be allowed only with prior written approval of the County's Project Manager. **Note: The written approval of substituted A-E Key Personnel is for departmental use only and shall not be used for auditing purposes outside OC Public Works or other County department.**

A-E may reserve the right to involve other A-E personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/classification required. Assignment of additional key personnel shall be subject to County Project Manager written approval. **Note: The written approval of additional A-E Key Personnel is for departmental use only and shall not be used for auditing purposes outside OC Public Works or other County Department.** County reserves the right to have any A-E personnel removed from providing services to County under this Contract. County is not required to provide any reason for the request for removal of any A-E personnel.

1. SUBCONSULTANT(S) (IF APPLICABLE)

Listed below are subconsultant(s) anticipated by A-E to perform services specified in Attachment A. Substitution or addition of A-E's subconsultants in any given project function shall be allowed only with prior written approval of the County Project Manager.

Corporate Name	Corporate Address	Local Office Address*	Contact Name	Telephone Number	Project Function	DVBE Certification Number	DBE Certification Number
CWE	1561 E. Orangethorpe Ave., Suite 240 Fullerton, Ca 92831	1561 E. Orangethorpe Ave., Suite 240 Fullerton, Ca 92831	Vik Bapna	714-262-0180	Water Quality	N/A	N/A
Earth Mechanics, Inc	17800 Newhope St., Suite B Fountain Valley, CA 92780	17800 Newhope St., Suite B Fountain Valley, CA 92780	Alahesh Thurairajah	714-751-3826	Geological Engineering	N/A	6956
LIN Consulting, Inc.	21660 Copley Dr., Suite 270 Diamond Bar, CA 91765	21660 Copley Dr., Suite 270 Diamond Bar, CA 91765	William Sun	909-396-6850	Traffic Planning, Traffic Signals, Lighting	N/A	28897
NCM	9850 Research Dr. Irvine, CA 92618	9850 Research Dr. Irvine, CA 92618	Mohan Char	949-294-7358	Structures Engineering	N/A	N/A
Q3 Consulting	27042 Towne Centre Dr., Suite 110, Lake Forest CA 92610	27042 Towne Centre Dr., Suite 110, Lake Forest CA 92610	John McCarthy	949-259-6730	Hydrology & Hydraulics Engineering	N/A	N/A

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MA-080-22011119



RSE Corporation	1075 Old Country Rd., Suite D Belmont, CA 94002	250 W. First Street, Suite 226 Claremont, CA 91711	Phil Leong	650-826-1856	Rail Coordination, Structures, Survey	N/A	34220
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COST PROPOSAL FOR PROJECT SCOPE: OCPW - OC Loop OPQ

MARK THOMAS	Quantity	Subconsultants																				TOTAL COST										
		Principal	Sr. Engineering Manager	Engineering Manager	Sr. Project Manager	Sr. Technical Lead	Technical Lead	Sr. Project Engineer	Project Engineer	Design Engineer II	Design Engineer I	Sr. Technician	Sr. Survey Manager	Sr. Project Surveyor	Sr. Survey Technician	LAUD Division Manager	Sr. LAUD Project Manager	Landscape Architect	Landscape Designer II	Sr. Project Accountant	Sr. Project Coordinator		Sr. Graphic Manager	Sr. Graphic Designer	Total Hours	Total MT Cost	CWE	EMI	LIN	NDM	Q3	RSE
		\$300	\$299	\$259	\$239	\$234	\$195	\$168	\$147	\$128	\$105	\$130	\$223	\$177	\$118	\$231	\$218	\$133	\$106	\$165	\$130		\$155	\$134			Non-DBE	DBE	DBE	Non-DBE	Non-DBE	DBE
TOTAL HOURS		71	290	150	1311	360	4000	450	3665	5370	2367	1982	23	92	8	38	135	302	516	72	164	8	40	21,414								
Anticipated Salary Increases																								3%	\$106,788	\$2,175	\$8,770	\$2,796	\$19,569	\$1,372	\$10,361	\$151,830
OTHER DIRECT COSTS																								\$39,399	\$0	\$129,455	\$3,168	\$0	\$0	\$0	\$166,022	
TOTAL COST		\$21,300.00	\$86,709	\$38,850	\$313,329	\$84,240	\$780,000	\$75,600	\$538,755	\$687,360	\$248,535	\$257,660	\$5,129	\$16,284	\$944	\$8,778	\$29,430	\$40,166	\$54,696	\$11,880	\$21,320	\$1,240	\$5,360	\$3,473,751	\$69,939	\$405,498	\$88,303	\$629,356	\$44,112	\$333,213	\$5,044,173	
OPTIONAL TASKS (CONTINGENCY)																								246	\$49,610							
1.1 Utility Agreements Support			24	40			8		20																						\$22,036	
1.2 Traffic Management Plan (TMP)					2	8		24																34	\$6,382		\$27,360				\$33,742	
1.3 Additional Outreach Support (Visualization)	4 graphics	4			8																	36		48	\$8,692				\$20,000	\$28,692		
1.4 As-Needed Certified Biologist					2		4	6															12		\$2,266					\$2,266		
1.5 65% Design Addenda (Memo of Changes)		2	0	0	2	4	12	0	40	0	0	0	0	0	0	0	0	0	0	0	0	0	60	\$10,234	\$0	\$0	\$0	\$1,682	\$0	\$0	\$11,916	
1.6 Potholing																									\$0						\$0	
1.7 Additional Supplemental Survey					2			4					2	8	8										24	\$3,956				\$49,600	\$53,556	
1.8 Architectural Historical Report					2		4	6																12	\$2,266						\$2,266	
1.9 Split Segment P and Q					24	8	40		210	144	72													498	\$72,270						\$72,270	
1.10 Additional Railroad & CPUC Support		40			24		20		40		60													184	\$33,776						\$33,776	
1.11 Additional Geotechnical Support																															\$40,000	
Other Direct Costs - Ultra (Environmental)																										\$51,450					\$51,450	
Other Direct Costs - SafeProbe (Potholing)																										\$91,200					\$91,200	
Subtotal Optional (CONTINGENCY) Tasks																									\$304,528	\$0	\$40,000	\$27,360	\$1,682	\$0	\$69,600	\$443,170

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: County of Orange, OC Public Works 2. Contract DBE Goal: 15%
 3. Project Description: OC Loop Segments O, P, Q Coyote Creek Channel (A01) Class I Bikeway
 4. Project Location: County of Orange
 5. Consultant's Name: Mark Thomas & Company, Inc. 6. Prime Certified DBE: 7. Total Contract Award Amount: \$5,487,343
 8. Total Dollar Amount for **ALL** Subconsultants: \$1,709,064 9. Total Number of **ALL** Subconsultants: 6

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Geotechnical Engineering	6956	Earth Mechanics, Inc. 17800 Newhope Street, Suite B Fountain Valley, CA (714) 751-3826	\$445,498
Traffic/Civil Engineering	28897	LIN Consulting, Inc. 21660 E. Copley Dr, #270 Diamond Bar, CA 91765 (909) 396-8150	\$115,663
Surveying, ROW Engineering & Rendering Support	34220	Rail Surveyors and Engineer's Inc 1075 Old County Road, Suite D Belmont, CA 94002 (650) 637-9500	\$402,813
Local Agency to Complete this Section			
20. Local Agency Contract Number: _____		14. TOTAL CLAIMED DBE PARTICIPATION	\$936,974
21. Federal-Aid Project Number: _____			17.5%
22. Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.	
 23. Local Agency Representative's Signature	3/7/2022 24. Date	 15. Preparer's Signature	02/24/2022 16. Date
Austin Morgan	714-647-3981	Robert Himes	(916) 381-9100
25. Local Agency Representative's Name	26. Phone	17. Preparer's Name	18. Phone
Sr. Project Manager		Principal/Division Manager	
27. Local Agency Representative's Title		19. Preparer's Title	

DISTRIBUTION: 1. Original – Local Agency
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.