

**CONTRACT FOR
DESIGN PHASE SERVICES**

THIS CONTRACT, hereinafter referred to as “Contract” for purposes of identification hereby numbered MA-080-20010978, and dated _____ day of _____, 20_____ is

BY AND BETWEEN

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

AND

Ames Construction, Inc., a Minnesota Corporation, hereinafter referred to as “(CMAR)”,

which are sometimes individually referred to as “PARTY” or collectively referred to as “PARTIES”.

RECITALS

WHEREAS, Owner requires professional services to accomplish projects and/or services (“Projects/Services”) as described in MA-080-20010978 Scope of Work for Construction Manager at Risk (CMAR) for Brea Boulevard Bridge Replacement and Corridor Enhancement Project, hereinafter referred to as “Attachment A,” attached hereto and incorporated herein by reference; and

WHEREAS, CMAR is a firm whose principals are, and/or employs a sufficient number of personnel who are, as required by law, registered by the State of California for the practice of specialized design 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. Owner does hereby retain CMAR to perform the Project/Services as required by this Contract.

1.1.2. CMAR has offered, and Owner has accepted, the professional services of **Ames Construction, Inc.**, and CMAR shall assign him/her to the Project/Services.

1.1.3. CMAR may employ special consultants/contractors for the accomplishment of the Project/Services specified; and only the firms or independent consultants/contractors identified in Attachment C may be employed by CMAR to provide these Project/Services.

1.1.4. Consultants/contractors may be substituted and/or added by mutual agreement of CMAR and Owner.

1.1.5. CMAR's employment of independent consultants/contractors shall not relieve CMAR from the performance of its own responsibilities pursuant to this Contract. However, all consultants/contractors independently contracting with Owner shall be independently liable to Owner for the performance of the work pursuant to their agreements, and CMAR shall have no liability for work by contractors independently contracting with

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Owner.

1.2. Projects/Services

1.2.1. Description of Project/Services

- a. Projects/Services to be performed by CMAR shall consist of the work as specified herein and as required in Attachment A-Scope of Work and the Design General Conditions. 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. CMAR shall be responsible for submitting all Project/Services to Owner in a form which has been thoroughly reviewed and checked for completeness, accuracy and consistency by the licensed professional named in Section 1.1.2 herein; and, any Project/Services not meeting this requirement will be returned to CMAR prior to review by Owner.

1.2.2. Design Criteria and Standards

All Project/Services shall be performed in accordance with instructions, criteria and standards set forth by the ENGINEER and as described in Attachment A.

1.2.3. Scheduling (*subject to change per scope of work specifications and/or contract task orders*)

- a. Concurrently with the work of the Contract, CMAR shall prepare a progress work schedule and within five (5) working days from the date of receipt of individual assignments from Owner, CMAR shall submit to Owner two (2) copies of a progress work schedule which shall delineate dates of commencement and completion of the various phases of Project/Services assignments. CMAR schedule shall include required Owner review period(s) set forth herein. An approved copy of the progress schedule will be returned to CMAR.
- b. CMAR shall allow at least five (5) working days for Owner review of progress work schedule. In planning work CMAR should anticipate and allow twenty (20) working days for Owner review of each submittal required in Attachment A.
- c. CMAR shall meet on an as-needed basis as determined by Owner or at least once every week with Owner 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, CMAR shall prepare a brief memorandum summarizing the results of the meeting and shall submit it to Owner for concurrence.
- e. CMAR shall complete all the work of Project/Services and obtain all approvals by the Owner within the time frame indicated in Attachment A except CMAR shall not be responsible for any delay beyond the control of CMAR.
- f. In the event CMAR fails to complete the work and obtain the approval of ENGINEER in the time allowed, Owner shall have the option of completing the work by its own forces or by contract with another firm. The time allowed for CMAR to complete the Project/Services pursuant to this Contract shall be extended

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for delay caused by Owner in completing its work pursuant to this Contract which delay exceeds the agreed Owner review and/or approval time periods.

1.3. Assistance by Owner STAFF

1.3.1. Owner shall assign an appropriate staff member to work with CMAR in connection with the work of this Contract. Said staff member's duties will consist of the giving of advice and consultations, assisting CMAR in negotiations with other public agencies and private parties, miscellaneous items which in the judgment of CMAR or Owner'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 CMAR to schedule, initiate and carry through to completion.

1.4. Term and Maximum Compensation

1.4.1. The Contract shall go into effect upon Board Approval and CMAR shall commence work after notification to proceed by Owner's, with a maximum allowable compensation of one hundred and fifty thousand dollars (\$150,000).

1.4.2. CMAR is advised that any recommendation for contract award is not binding on Owner until the Contract is fully executed and approved by the Owner.

1.5. CMAR Compensation and Extra Work

1.5.1. For the Project/Services authorized under this Contract, CMAR shall be compensated in accordance with the following:

1.5.2. For completion and approval of all Project/Services where "Extra Work" (defined as changes in approved portions of the Projects/Services required by and ordered in writing by ENGINEER which changes constitute a change in or departure from said approved portions of Project/Services) is not authorized, compensation including reimbursables shall be described and payable as stipulated in Price Proposal, herein after referred to as "Attachment B", attached hereto and incorporated herein by reference.

1.5.3. Where extra work is authorized for Project/Services:

- a. The amount for Extra Work shall be determined using Attachment B. Extra Work shall be required by and ordered in writing by the ENGINEER. 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. Increases in the Contract amount for services within the existing scope of work may be granted by the ENGINEER where the amount does not exceed 25 percent of the existing Contract price or \$200,000, whichever is less.
- b. CMAR's billing for the Extra Work shall include but not be limited to names of CMAR's staff employed in the Extra Work, classification of employees and number of hours worked.

1.5.4. For partial completion of work of Project/Services followed by default on part of CMAR:

- a. For failure to complete and secure approval of the first required submittal, there shall be no compensation.

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- b. For failure to complete and secure approval of other authorized phases, CMAR shall, upon completion of Project/Services by others, be entitled to receive compensation based on approved work of Project/Services not to exceed the amounts specified in Attachment B for that particular submittal, plus the reasonable value as determined by Owner of the non-approved work; provided, however, that if the cost to Owner to complete the contract exceeds the amount specified herein, CMAR shall be liable to Owner for such excess costs attributable to CMAR's breach of the Contract.

2. LABOR**2.1 Non-Employment of Owner Personnel**

- 2.1.1** CMAR agrees that it will neither negotiate, offer, or give employment to any full-time, regular employee of Owner 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 CMAR, or any of CMAR's employees or agents, agents or employees of the Owner. CMAR shall be an independent contractor and shall have responsibility for and control over the details and means for performing the work, provided that CMAR is in compliance with the terms of this Contract. Anything in the Contract which may appear to give Owner the right to direct CMAR as to the details of the performance of the work or to exercise a measure of control over CMAR shall mean that CMAR shall follow the desires of Owner, only in the results of the work.

2.2**Non-Discrimination**

- 2.2.1** In the performance of this Contract, CMAR agrees that it will comply with the requirements of the California Labor Code and not engage nor permit any subcontractors 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** CMAR acknowledges that a violation of this provision shall subject CMAR to all the penalties imposed for a violation of the California Labor Code.

2.3 Employee Eligibility Verification

- 2.3.1** CMAR 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. CMAR 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. CMAR shall retain all such documentation for all covered employees for the period prescribed by the law.

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2.4 Independent Contractor

- 2.4.1** As referenced in Section 2.1.2 of this Contract, CMAR shall be considered an independent contractor.
- 2.4.2** Neither CMAR, its employees nor anyone working under CMAR shall qualify for workers' compensation or other fringe benefits of any kind through Owner.

2.5 Conflict of Interest Contractor Personnel

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

2.6 Labor Code Notice

- 2.6.1** All CMAR and subcontractors 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. CMAR is encouraged to contact the California Department of Industrial Relations for clarification if the CMAR is unsure if some or any of the work performed under this Contract qualifies as "public works".

2.7 Subcontractor Bidding and Apprentices

- 2.7.1** CMAR shall comply with Public Contract Code Section 22166 for the award of subcontracts exceeding one-half of one percent of the contract price allocable to construction work.
- 2.7.2** CMAR shall comply with all requirements of California Public Contract Code Section 2601 (c) regarding the use of a skilled and trained workforce.
- 2.7.3** All contractors and subcontractors 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, Contractor and each Subcontractor shall furnish electronic payroll records directly to the Labor Commissioner in the manner specified in Labor Code Section 1771.4.

3. INSURANCE

- 3.1.1** Prior to the provision of services under this Contract, the CMAR agrees to purchase all required insurance at CMAR's expense, including all endorsements required herein, necessary to satisfy the Owner that the insurance provisions of this Contract have been complied with. CMAR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the Owner during the entire term of this Contract. The Owner reserves the right to request the declarations page showing all endorsements and a certified copy of the policy. In addition, all subcontractors performing work on behalf of CMAR pursuant to this Contract shall obtain insurance

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subject to the same terms and conditions as set forth herein for CMAR.

- 3.1.2** CMAR shall ensure that all subcontractors performing work on behalf of CMAR pursuant to this Contract shall be covered under CMAR's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for CMAR. CMAR shall not allow subcontractors to work if subcontractors have less than the level of coverage required by Owner from CMAR under this Contract. It is the obligation of CMAR to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by CMAR through the entirety of this Contract for inspection by Owner representative(s) at any reasonable time.
- 3.1.3** All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the Owner's Risk Manager, or designee, upon review of CMAR's current audited financial report. If CMAR's SIR is approved, CMAR, 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 Owner harmless against any and all liability, claim, demand or suit resulting from CMAR's, its agents, employee's or subcontractor's performance of this Contract, CMAR shall defend the Owner at its sole cost and expense with counsel approved by Board of Supervisors against same; and
 2. CMAR'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 CMAR's SIR provision shall be interpreted as though the CMAR was an insurer and the Owner was the insured.
- 3.1.4** If the CMAR fails to maintain insurance acceptable to the Owner for the full term of this Contract, the Owner 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 CMAR shall provide the minimum limits and coverage as set forth below:

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Attachment A
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<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	\$5,000,000 per claims made or per occurrence \$5,000,000 aggregate
Environmental/Pollution Liability* <i>*(Optional coverage to be required only when hazardous materials are involved. If required, CMAR will be notified by Owner).</i>	\$1,000,000 per claims made or occurrence

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 and the City of Brea, and their respective elected and appointed officials, officers, employees and agents*** 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 CMAR's insurance is primary and any insurance or self-insurance maintained by the County of Orange, and the City of Brea, 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, and the City of Brea, and their respective elected and appointed officials, officers, employees and agents*** as Additional Insureds.
 - b. A primary non-contributing endorsement evidencing that CMAR's insurance is primary and any insurance or self-insurance maintained by

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the County of Orange, and the City of Brea 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, and the City of Brea, and their respective elected and appointed officials, officers, employees and agents**, 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 and the City of Brea, and its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.
5. CMAR shall notify Owner 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 Owner. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the Owner may suspend or terminate this Contract.
6. If CMAR's Professional Liability policy is a claims-made policy, CMAR shall agree to maintain professional liability coverage for five (5) 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 CMAR 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. Owner expressly retains the right to require CMAR 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 Owner.
11. Owner shall notify CMAR in writing of changes in the insurance requirements. If CMAR does not deposit copies of acceptable Certificates of Insurance and endorsements with Owner incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to CMAR, and Owner shall be entitled to all legal remedies.
12. The procuring of such required policy or policies of insurance shall not be construed to limit CMAR'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.

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4. INDEMNITY/COMPLIANCE

1.1 CMAR shall indemnify, defend with counsel approved in writing by Owner, and hold harmless, the Owner and the City of Brea, and their respective agents, officers, and employees from employer sanctions and any other liability which may be assessed against CMAR or the Owner 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.

1.2 All Project/Services submitted by CMAR shall be complete and shall be carefully checked prior to submission. CMAR understands that Owner's checking is discretionary, and CMAR shall not assume that Owner will discover errors and/or omissions. If Owner discovers any errors or omissions prior to approving CMAR's Project/Services, the Project/Services will be returned to CMAR for correction. Should Owner or others discover errors or omissions in the work submitted by CMAR after Owner's approval thereof, Owner's approval of CMAR's Project/Services shall not be used as a defense by CMAR.

1.3 Indemnification

1.3.1 CMAR agrees to, indemnify, defend with counsel approved in writing by Owner, and hold the County of Orange and the City of Brea, and their respective elected and appointed officials, officers, employees, agents and those special districts and agencies which Owner's Board of Supervisors acts as the governing Board ("Owner 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 CMAR. If judgment is entered against CMAR and Owner by a court of competent jurisdiction because of the concurrent active negligence of CMAR and Owner or Owner INDEMNITEES, CMAR and Owner 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 CMAR of any insurance requirements or obligations created elsewhere in this Contract.

1.4 Bills and Liens

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

1.5 Compliance with Laws

1.5.1 CMAR represents and agrees that services to be provided under this Contract shall fully comply, at CMAR's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by Owner in its governmental capacity and all other laws applicable to the Project/Services at the time Project/Services are provided to and accepted by Owner.

1.5.2 CMAR acknowledges that Owner is relying on CMAR for such compliance, and

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pursuant to the requirements of the indemnification paragraph above, **CMAR agrees that it shall defend, indemnify and hold Owner and Owner 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 CMAR breaches any of the covenants or conditions of this Contract, Owner shall have the right to terminate this Contract upon ten (10) days written notice prior to the effective day of termination.
- 5.1.2** CMAR 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 CMAR prior to termination, all work performed by CMAR pursuant to this Contract, which work has been reduced to plans or other documents, shall be made available to Owner.

5.2 Termination for Convenience

- 5.2.1** Notwithstanding any other provision of the Contract, Owner 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 CMAR. Such termination shall be effected by delivery to the CMAR of a notice of termination specifying the effective date of the termination and the extent of the Work to be terminated.
- 5.2.2** CMAR 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 Owner.
- 5.2.3** Owner shall pay the CMAR for the Work completed prior to the effective date of the termination, and such payment shall be the CMAR's sole remedy under this Contract.
- 5.2.4** Under no circumstances will CMAR 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** CMAR shall insert in all subcontracts that the subcontractor shall stop work on the date of and to the extent specified in a notice of termination, and shall require subcontractors to insert the same condition in any lower tier subcontracts.

5.3 Breach of Contract

- 5.3.1** The failure of the CMAR 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 Owner may:
 - a. afford the CMAR 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 CMAR for and during the period in which the CMAR is

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in breach; and

- c. offset those monies disallowed pursuant to the above, against any monies billed by the CMAR but yet unpaid by the Owner.

5.4 Default

5.4.1 In the event any equipment or service furnished by the CMAR in the performance of this Contract should fail to conform to the specifications therein within one (1) calendar year from the Owner's acceptance of the equipment or service, or any performance period specifically specified within the specifications or CONTRACT, whichever is greater, the Owner may reject same, and it shall become the duty of the CMAR to reclaim and remove the items without expense to the Owner and to immediately replace all such rejected equipment or service with others conforming to such specifications, provided that should the CMAR fail, neglect or refuse to do so within one hundred and twenty (120) calendar days, the Owner 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 CMAR the difference between the price specified in this Contract and the actual cost to the Owner.

5.4.2 In the event the CMAR shall fail to make prompt delivery as specified of any equipment or service, the same conditions as to the rights of the Owner 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 CMAR, any loss or damage sustained by the Owner in procuring any equipment or service which the CMAR agreed to supply under this Contract shall be borne and paid for by the CMAR.

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 Project/Services as agreed to herein, or otherwise substantially violating any provision of this Contract.

5.4.5 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**

6.1.1 CMAR 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

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conduct of the Project/Services.

6.1.2 OMITTED

6.2 Amendments

6.2.1 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 Owner unless authorized by Owner in writing.

6.3 Successors and Assigns

6.3.1 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.

6.4 Entirety

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

6.5 Severability

6.5.1 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.

6.6 Binding Obligation

6.6.1 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.

6.7 Governing Law and Venue

6.7.1 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.

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

6.7.3 Omitted

6.8 Ownership of Documents

6.8.1 All data, including but not limited to letters, reports, files, plans, drawings, specifications,

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proposals, sketches, diagrams and calculations, prepared by CMAR and/or anyone acting under the supervision of CMAR pursuant to this Contract, shall become the property of Owner upon preparation by CMAR and may be used by the Owner as it may require without additional cost to the Owner.

6.8.2 CMAR, at Owner's direction and upon Owner's request, shall transmit and convey to Owner all such data described in Section 6.8.1 above, in native format and regardless of whether such data constitutes a draft, preliminary, or final document within three (3) business days. Failure by CMAR to promptly comply with such direction and request by Owner shall constitute a material breach of CMAR's responsibilities under this Contract.

6.8.3 Owner shall not be limited in any way to its use thereof at any time, including the release of this data to third parties. CMAR shall be held harmless for release of such data as may be prepared or created under this Contract to any third party. If CMAR and/or anyone acting under the supervision of CMAR should later desire to use any of the data prepared in connection with this Contract, CMAR shall first obtain the written approval of Owner.

6.9 Confidentiality

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

6.9.2 Nothing furnished to CMAR which is generally known among counties in Southern California shall be deemed confidential.

6.9.3 CMAR and/or anyone acting under the supervision of CMAR shall not use Owner 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 Owner.

6.10 Publication

6.10.1 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 CMAR and/or anyone acting under the supervision of CMAR to any person, partnership, company, corporation, or agency, without prior written approval by the Owner, 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 Owner approval.

6.10.2 The CMAR 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. CMAR must first obtain review and approval of said media contact from the Owner through the Owner's Project Manager. Any requests for interviews or information received by the media should be referred directly to the Owner. CMAR's are not authorized to serve as a media spokesperson for Owner projects without first obtaining permission from the Owner Project Manager.

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6.11 Records and Audit/Inspections

- 6.11.1** CMAR shall keep an accurate record of time expended by CMAR and/or consultants employed by CMAR in the performance of this Contract.
- 6.11.2** Within ten (10) days of Owner's written request, CMAR shall allow Owner 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.
- 6.11.3** CMAR 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.
- 6.11.4** Should CMAR 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 Owner.

6.12 Notices

- 6.12.1** 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 Project/Services.
- 6.12.2** 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.
- 6.12.3** 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 CMAR: Ames Construction, Inc.
391 N. Main Street, #302
Corona, CA 92880
Attn: Tim Wilson, PE
Phone: 951-356-1275
E-mail: TimWilson@amesco.com

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

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cc: OC Public Works Procurement Services
601 N. Ross St.
Santa Ana, CA 92701
Attn: Christina Rojas
Phone: 714-667-9765
E-mail: Christina.Rojas@ocpw.ocgov.com

6.13 Attorney's Fees

6.13.1 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.

6.14 Interpretation

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

6.14.2 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.

6.14.3 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.

6.14.4 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.

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

6.15 Headings

6.15.1 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.

6.16 Acceptance

6.16.1 Unless otherwise agreed to in writing by Owner 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 Owner.

6.17 Changes

6.17.1 CMAR shall make no changes in the work or perform any additional work without the Owner's specific written approval.

6.18 Assignment

6.18.1 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

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performance of this Contract nor any portion thereof may be assigned or sub-contracted by CMAR, by any means whatsoever including but not limited to acquisition by merger, without the express written consent of Owner. Any attempt by CMAR to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of Owner shall be invalid and shall constitute a breach of this Contract.

6.19 Changes in Ownership

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

6.20 Force Majeure

CMAR 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 CMAR gives written notice of the cause of the delay to Owner within seventy-two (72) hours of the start of the delay and CMAR avails himself of any available remedies.

6.21 Calendar Days

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

6.22 Title to Data

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

6.22.2 All materials, documents, data or information, including copies furnished by Owner and loaned to CMAR for his temporary use, must be returned to the Owner at the end of this Contract unless otherwise specified by the DIRECTOR.

6.23 Availability of Funds

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

6.24 Contingency of Funding

6.24.1 CMAR acknowledges that funding or portions of funding for this Contract may also be

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contingent upon receipt of funds from, and/or appropriation of funds by, the State of California or other funding sources to Owner. If such funding and/or appropriations are not forthcoming, or otherwise limited, Owner may immediately terminate or modify this Contract without penalty.

6.25 Contract Construction

6.25.1 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.

6.26 Conflicts of Interest

6.26.1 CMAR 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).

6.26.2 If subject to the Act, CMAR 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 Owner. Pursuant to Section 4.3 "Indemnification", CMAR shall indemnify and hold harmless Owner for any and all claims for damages resulting from Contractor's violation of this Section.

6.27 Usage

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

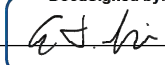
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IN WITNESS WHEREOF, the PARTIES hereto have executed this Contract on the dates opposite their respective signatures:

AMES CONSTRUCTION, INC.,
a Minnesota Corporation,

Date: 12/30/2019

By: _____
Signature

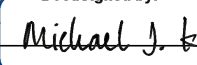
DocuSigned by:

FE02C1F287F84BA...

GERALD F. MILLER,
Executive Vice President, Southwest Region
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: 12/31/2019

By: _____
Signature

DocuSigned by:

9CFE3F06E18D4ED...

MICHAEL J. KELLEN, Chief Financial Officer
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: _____
Signature 12/31/2019

DocuSigned by:

1D2AF995336249F...

Print Name: MARK N. SANCHEZ, Deputy County Counsel

GENERAL CONDITIONS

1. Definitions

As used in the Contract Documents, the following terms shall have the following definitions:

Term	Definition
"day"	Unless otherwise specified within the Contract Documents, all references to any "day" or number of "days" shall mean consecutive calendar days (including all holidays and weekends).
"working day"	Any day within the period between the date of the Notice to Proceed and Owner's acceptance of the work, except: Saturday; Sunday; or any day designated as a holiday by Owner. Notwithstanding the foregoing, any day will be treated as a working day if the Contract Documents require that it be so treated, or CMAR with Owner's approval elects to work on such day.
Addendum/Addenda	Written or graphic instrument issued prior to the submittal of the GMP (hereinafter defined) Proposal(s), which clarify, correct or change the GMP Proposal(s) requirements.
Agreement	The portion of the Contract Documents, signed by both Parties, that contains the Project name, Contract Price, Contract Time, Liquidated Damages, and other terms and conditions.
Amendment	A written instrument issued after execution of the Contract Documents signed by the Owner and CMAR, stating their Contract upon all of the following: the addition, deletion or revision in the scope of services or Deliverables; the amount of the adjustment to the Contract Amount; the extent of the adjustment to the Contract Time; or modifications of other Contract terms.
Application for Payment	CMAR's periodic or one-time claim for payment based on work completed.
Accepted Project Schedule	CMAR's initial job progress schedule after it has been accepted by Owner and designated as the Accepted Project Schedule, and updated by each accepted monthly Schedule Update.
Board of Supervisors	Owner's governing body.
CCR	California Code of Regulations.
Code Sections	Except where otherwise specified, all statutory references (e.g. "Labor Code" or "Public Contract Code") shall mean those laws enacted by the State of California, as they may be amended.
Construction Contract Time	The number of working days or the dates related to the construction phase that is stated in Construction Documents applies to achievement of Substantial Completion of the Work.
Construction Documents	Final plans, specifications and estimates prepared by the OWNER's Engineer of Record after correcting for peer review comments and utilized for the CMAR's Construction Services Guaranteed Maximum Price Proposal.
Construction Fee	A fixed percentage of the future Construction Services Contract total to cover CMAR's administrative costs, home office overhead, and profit, whether at the CMAR's principal or branch offices.

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Term	Definition
Contingency (CMAR's)	A fund to cover cost growth during the Project used at the discretion of the CMAR usually for costs that result from Project circumstances. The amount of the CMAR's Contingency will be negotiated as a separate line item in each GMP package. Use and management of the CMAR's Contingency during the construction phase is described in Section 2.7.
Contingency (Owner's)	A fund to cover cost growth during the Project used at the discretion of the Owner usually for costs that result from Owner directed changes or unforeseen site conditions. The amount of the Owner's Contingency will be set by the Owner and will be in addition to the project costs included in the CMAR's GMP packages. Use and management of the Owner's Contingency during the construction phase is described in Section 2.7.
Contract	This written document signed by the Owner and CMAR covering the design phase of the Project, as and including other documents itemized and referenced in or attached to and made part of this Contract, including the below referenced General Conditions.
Contract Documents	The following items and documents in descending order of precedence executed by the Owner and the CMAR: (i) all written modifications, amendments;
Contract Amount	The cost for Design Phase Services for this Contract as identified in Section 3.
Contract Unit Price	The amount stated in the GMP Proposal for a single unit of an item of work.
Cost of the Work	Direct design phase costs necessarily incurred by the CMAR in the proper performance of the Work. The Cost of the Work shall include direct labor costs, subcontract costs, costs of materials and equipment incorporated in the completed construction, costs of other materials and equipment, temporary facilities, permit fees (if not paid for by Owner), materials testing, and related items. The Cost of the Work shall not include the CMAR's Construction Fee or taxes.
Critical Path Schedule	The sequence of activities from the start of the Work to the Completion of the Project. Any delay in the completion of these activities will extend the Completion date.
Construction Manager at Risk Entity (CMAR)	The Respondent ("Party") awarded the Contract by Owner.
Design Phase Services	The work products prepared by the CMAR in performing the Scope of Work, attached hereto and as described in this Contract.
Director	Except where otherwise provided, references to "Director" shall mean the Director of OC Public Works or his or her designee.
DISTRICT	Orange County Flood Control District
Engineer of Record	The OWNER's California-registered engineer in responsible charge for the design of the Project and whose seal appears on the Plans, Specifications, and Special Provisions.
Escrowed Documents	Those documents sealed, submitted, and held in accordance with the "ESCROWED DOCUMENTS" Section of the Agreement.
Float	The number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Completion date.

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Term	Definition
General Conditions	The portion of the Contract Documents setting forth various conditions and requirements of the Contract.
Guaranteed Maximum Price (GMP) Proposal	The offer or proposal of the CMAR submitted on the prescribed form, Attachment B, setting forth the GMP prices for the entire Work or portions of the Work to be performed during the design phase. The GMP Proposal(s) are to be developed in accordance with the Instructions to Respondents and Section 2.7 of this Contract.
Guaranteed Maximum Price (GMP)”	The sum of the maximum Cost of the Work including the CMAR’s Construction Fee, General Conditions Costs, sales tax, and CMAR Contingency.
Laws and Regulations; Laws or Regulations	Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.
Lump Sum (LS)	"Lump Sum", "L.S.", or "Job" prices are paid according to a flat total for all labor, materials, overhead, and other costs associated with the work item. (See the "PAYMENTS" Section of the General Conditions.)
Notice of Termination	Owner's notice to CMAR specifying the effective date of a termination of the Contract (in whole or in part).
Notice to Proceed (NTP)”	Written notice given by Owner to the CMAR fixing the date on which the CMAR will start to perform the CMAR’s obligations under this Contract.
Owner	The County of Orange, a political subdivision of the State of California, and its representatives.
Party / Parties	The Owner and/or CMAR.
Plans	The drawings, profiles, cross sections, standard plans, working drawings, and shop drawings, or reproductions thereof, approved by Owner, which show the location, character, dimensions, or details of the Project.
Project	All work performed by CMAR as required by, and in strict accordance with, the Contract Documents.
Project Manager (PM)	The Owner representative identified in the Contract Documents or otherwise specified by Owner in writing.
Project Schedule	A current schedule developed from the accepted baseline project schedule or subsequent schedule through regular monthly review to incorporate as-built progress and any planned changes.
Project Team	Design phase services team consisting of the CMAR, Owner, and other stakeholders who are responsible for making decisions regarding the Project.
Reference Specifications	Those bulletins, standards, rules, methods of analysis or testing, codes, and specifications of other agencies, engineering societies, or industrial association referred to in the Contract Documents. These shall refer to the latest edition, including amendments in effect and published at the time of advertising the Contract or issuing the permit, unless specifically referred to by edition, volume, or date.

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Term	Definition
Schedule of Values	CMAR's detailed breakdown of unit prices and costs of services, labor, and materials.
Schedule Update(s)	CMAR's monthly update of work progress. (See the "PROJECT SCHEDULES" Section of the General Conditions.)
Shop Drawings	All drawings, diagrams, schedules and other data specifically prepared for the Work by the CMAR or a Sub-consultant, Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.
Site	The land or premises on which the Project is located.
Special Provisions	The portion of the Contract Documents describing the specific requirements of the Project, which may include additions and revisions to the Standard Specifications setting forth conditions and requirements peculiar to the Project.
Standard Plans	Details of standard structures, devices, or instructions referred to on the Plans or in the Special Provisions by title or number.
Standard Specifications	The Standard Specifications for Public Works Construction (SSPWC), known as the "Greenbook," Current Edition, Parts 2 through 5, including any supplements effective as of the time of Bid opening.
Subcontractor(s)	A person, firm or corporation having an independent Contract with the CMAR to furnish services required as its independent professional associate or consultant or perform portions of the work with the respect to the Project. May be herein referred to as sub-consultant or subcontractor
Submittals	Items that the Contract Documents require CMAR to submit to Owner after award of the Contract and issuance of the Notice to Proceed, as provided by the "SUBMITTALS" Section of the General Conditions.
Substantial Completion	When the Work, or an agreed upon portion of the Work, is sufficiently complete so that Owner can occupy and use the Project or a portion thereof for its intended purposes. The conditions of Substantial Completion that apply or do not apply to a specific GMP will be listed in the Notice to Proceed Letter pursuant to the Construction Phase Contract.
Supplier	A manufacturer, fabricator, supplier, distributor, materialman or vendor having a direct Contract with CMAR or with any Sub-contractor to furnish materials or equipment to be incorporated in the construction phase Work by CMAR or any subcontractor.
Supplementary General Conditions	The portion of the Contract Documents identified describing additions and revisions to the General Conditions setting forth conditions and requirements peculiar to the Project.
Unilateral Change Order	A Change Order issued by the Owner where Owner and CMAR cannot reach an agreement on a proposed modification to the Contract.
Value Engineering	Alternatives for design, means and methods or other scope considerations that are evaluated using value engineering principles and have the potential to reduce construction costs while still delivering a quality and functional Project that meets Owner requirements.

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Term	Definition
Work	The entire completed design and construction or the various separately identifiable parts thereof, required to be furnished during the design and construction phases. Work includes and is the result of preparing Construction Documents, performing or furnishing labor, furnishing and incorporating materials, resources and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

2. Design Phase Services

2.1 GENERAL PROJECT REQUIREMENTS

2.1.1 The CMAR, to further the interests of the Owner, will perform the services required by, and in strict accordance with this Contract, to the satisfaction of the Owner, exercising the degree of care, skill and judgment ordinarily used by members of the architectural and engineering professions, as well as members of the construction contractor professions, with expertise in the design and construction of public facilities, practicing under similar conditions in Orange County, California would exercise at the same time as the services performed hereunder. The CMAR will provide these services as applicable from the Design Phase through the end of the project design and construction.

2.1.2 Project Evaluation: If requested, as a participating member of the Project Team, the CMAR will provide to the Owner a written evaluation of the Owner’s Project and Project Budget, each in terms of the other, with recommendations as to the appropriateness of each.

2.1.3 Project Meetings: The CMAR will attend Project Team meetings which may include, but are not limited to, regular Project management meetings, Project workshops, special Project meetings, construction document rolling reviews and partnering sessions.

2.1.4 Alteration of Plans or of Character of Work:
 No substantial change, as determined at the sole discretion of the Owner, in general plan or character of the work shall be made by the CMAR without written agreement by the Owner. The CMAR will promptly notify and seek approval by the Owner in writing whenever the CMAR recommends value engineering alternatives should be considered that would cause changes in the Scope of Work requiring an adjustment in the cost estimate, Project Schedule, GMP Proposals and/or in the Contract Time for the Work, to the extent such are established.

The Owner reserves the right to request, at any time prior to or during the progress of the work, alterations or changes, whether a substantial change or not, and such alterations in the details of construction, whether a substantial change or not, as may be found necessary or desirable by the Owner in accordance with General Conditions Sections 5.2. Such alterations or changes shall not constitute a breach of Contract, shall not invalidate the Contract, nor release the CMAR from any liability arising out of this Contract or the surety bond. The CMAR agrees to evaluate the request within 7 days of receipt, and either provide justification for dismissing the request or proceed to perform the work, as altered or changed, the same as if it had been a part of the original Contract.

The term “substantial change” applies only when the Owner determines that the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction. This includes Project Milestone deliverables at 35%, 65%, and 95% Design. The allowance due to the CMAR will be in accordance with General Conditions Section 5.2 – Amendment to Design Work.

In the instance of an alleged “substantial change”, the determination by the Owner shall be conclusive. If the determination is challenged by the CMAR in any proceeding, the CMAR must establish by clear and convincing proof that the determination by the Owner was without any reasonable basis.

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2.2 PROJECT MANAGEMENT PLAN

2.2.1 If requested by the Owner, the CMAR will prepare and/or maintain a Project Management Plan (PMP), which may include the CMAR's professional opinions concerning: (a) Project milestone dates and the Project Schedule, including the broad sequencing of the design and construction of the Project, (b) investigations, if any, to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities, (c) alternate strategies for fast-tracking and/or phasing the construction, (d) the number of separate subcontracts to be awarded to Subcontractors and Suppliers for the Project construction, (e) permitting strategy, (f) safety and training programs, (g) construction quality control, (h) a commissioning program, (i) the cost estimate and basis of the project, and (j) a matrix summarizing each Project Team member's responsibilities and roles, (j) a utility relocation strategy, (k) construction staffing requirements, right of way, temporary construction easement (TCE), right of entry, encroachment permit strategies and requirements, and (l) reduction to environmental resources and environmental regulatory permit acquisition strategies.

2.2.2 The CMAR shall add detail to its previous version of the PMP as new information becomes available to keep it current throughout the design and construction phases. The update/revisions shall take into account (a) revisions in Drawings and Specifications; (b) the results of any additional investigatory reports of subsurface conditions, drawings of physical conditions of existing surface and subsurface facilities and documents depicting underground utilities placement and physical condition, whether obtained by the Owner or the CMAR, (c) unresolved permitting issues, and significant issues, if any, pertaining to the acquisition of land and right of way, (d) the fast-tracking if any of the construction, or other chosen construction delivery methods, (e) the requisite number of separate construction phases, (f) the status of the procurement of long-lead time equipment (if any) and/or materials, and (g) funding issues identified by the Owner.

2.3 PROJECT SCHEDULE

2.3.1 The fundamental purpose of the "Project Schedule" is to identify, coordinate and record the tasks and activities to be performed by all of the Project Team members and then for the Project Team to utilize that Deliverable as a basis for managing and monitoring all member's compliance with the schedule requirements of the Project. The CMAR is responsible for developing, managing, maintaining, and monitoring compliance with the "Project Schedule" on behalf of, and to be used by, the Project Team based on input from the other Project Team members. The Project Schedule will be consistent with the most recent revised/updated PMP. The Project Schedule will use the Critical Path Method (CPM) technique, unless required otherwise, in writing by the Owner. The CMAR will use scheduling software to develop the Project Schedule that is acceptable to the Owner. The Project Schedule shall be presented in graphical and tabular reports as agreed upon by the Owner. If construction phasing, as described below, is required, the Project Schedule will indicate milestone dates for the phases once determined.

2.3.2 The Project Schedule shall include a CPM diagram schedule that shall show the sequence of activities, the interdependence of each activity, and indicate the Critical Path.

2.3.2.1 The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities. The CMP diagram shall be presented in a time scaled graphical format for the Project as a whole.

2.3.2.2 The CPM diagram schedule shall indicate all relationships between activities.

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- 2.3.2.3 The activities making up the schedule shall be sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.
- 2.3.2.4 The CPM diagram schedule shall be based upon activities, which would coincide with the milestone submittals and schedule of values.
- 2.3.2.5 The CPM diagram schedule shall show all submittals associated with each work activity and the review time for each submittal.
- 2.3.3 Float time shall be as prescribed below:
- 2.3.3.1 The total Float within the overall schedule, is for the exclusive use of the Owner, and is a resource available to the Owner as needed to meet Contract milestones and the Project completion date.
- 2.3.3.3 Since Float time within the schedule is solely Owner owned, it is acknowledged that Owner-caused delays on the Project may be offset by Owner-caused time savings (i.e., critical path submittals returned in less time than allowed by the Contract, approval of substitution requests and credit changes which result in savings of time to the CMAR, etc.). In such an event, the CMAR shall not be entitled to receive a time extension or delay damages until all Owner-caused time savings are exceeded.
- 2.3.4 The Project Schedule will be updated and maintained by the CMAR throughout the design phase such that it will not require major changes at the start of the construction phase to incorporate the CMAR's plan for the performance of the construction phase Work. The CMAR will provide updates and/or revisions to the Project Schedule for use by the Project Team, whenever required, but no less often than at the Project Team meetings. The CMAR will include with such submittals a narrative describing its analysis of the progress achieved to-date vs. that planned, any concerns regarding delays or potential delays, and any recommendations regarding mitigating actions.
- 2.3.5 Construction Phasing: If phased construction is deemed appropriate and the Owner approves, the CMAR will review the design and make recommendations regarding the phased issuance of Construction Documents to facilitate phased construction of the Work, with the objective of reducing the Project Schedule and/or Cost of the Work. The CMAR will take into consideration such factors as natural and practical lines of work severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, labor and materials availability, and any other factors pertinent to saving time and cost.
- 2.4 **OMITTED**
- 2.5 **DESIGN DOCUMENT REVIEWS**
- 2.5.1 The CMAR will evaluate periodically the availability of labor, materials/equipment, building systems, cost-sensitive aspects of the design; and other factors that may impact the cost estimate, GMP Proposals and/or the Construction Schedule.
- 2.5.2 The CMAR will recommend, obtain Owner approval, and conduct any additional surface and subsurface investigations that, in its professional opinion, are required to provide the necessary information for the CMAR to construct the Project. Before initiating construction operations, the CMAR may request additional investigations in their GMP Proposal to improve the adequacy and completeness of the site condition information and data made available with the Construction Documents.
- 2.5.3 The CMAR will meet with the Project Team as required to review designs during their development. The CMAR will proactively advise, justify, and implement recommendations on factors related to construction costs and concerns pertaining to the feasibility and practicality of any proposed means and methods, selected materials, equipment and building systems, and, labor and material availability. The CMAR will furthermore advise, justify, and implement proposed site improvements, excavation and

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foundation considerations, as well as, concerns that exist with respect to coordination of the Drawings and Specifications. The CMAR will recommend and implement cost effective alternatives, as approved by the Owner.

- 2.5.4 Constructability Reviews: The CMAR shall conduct constructability reviews of the Construction Documents in accordance with the CMAR's Quality Assurance / Quality Control (QA/QC) Plan. The reviews will ensure (a) the Drawings and Specifications are configured to enable efficient construction, (b) design elements are standardized, (c) construction efficiency is properly considered in the Drawings and Specifications, (d) module/preassembly design are prepared to facilitate fabrication, transport and installation, (e) the design promotes accessibility of personnel, material and equipment and facilitates construction under adverse weather conditions, (f) sequences of Work required by or inferable from the Drawings and Specifications are practicable, and (g) the design has taken into consideration, efficiency issues concerning; access and entrance to the site, laydown and storage of materials, staging of site facilities, construction parking, and other similar pertinent issues. The CMAR shall identify and rectify all discrepancies and inconsistencies in the Construction Documents.
- 2.5.4.1 Biddability Reviews: The CMAR shall conduct biddability reviews of the Construction Documents in accordance with the CMAR's QA/QC Plan. The CMAR will check cross-references and complementary Drawings and sections within the Specifications, and in general ensure (a) the Drawings and Specifications are sufficiently clear and detailed to minimize ambiguity and to reduce scope interpretation discrepancies, (b) named materials and equipment are commercially available and are performing well or otherwise, in similar installations, and (c) Specifications include alternatives in the event a requirement cannot be met in the field. The CMAR shall identify and rectify all discrepancies and inconsistencies in the Construction Documents.
- 2.5.4.2 The results of the constructability and biddability reviews will be provided whenever required, but no less often than at the Project Milestones.
- 2.5.5 Notification of Variance or Deficiency: If the CMAR recognizes that portions of the Construction Documents are at variance with applicable laws, statutes, ordinances, building codes, rules and regulations, it will promptly notify the Owner in writing, describing the apparent variance or deficiency. The CMAR is ultimately responsible for the cost associated with the revisions necessary for compliance with those laws, statutes, ordinances, building codes, rules and regulations.
- 2.5.6 Value Engineering Evaluations: The CMAR will routinely identify, evaluate, justify, and implement, using value engineering principles, any alternate systems, approaches, design changes that have the potential to reduce Project costs while still delivering a quality and functional product. If the Owner approves, the CMAR will perform a cost/benefit analysis of the alternatives and submit such in writing to the Owner. The Project Team will decide which alternatives will be incorporated into the Project. The CMAR will have full responsibility for the incorporation of the alternatives into the Drawings and Specifications. The CMAR will include the cost of the alternatives into the cost estimate and any GMP Proposals.

2.6 **COST ESTIMATES**

- 2.6.1 Unless otherwise agreed by both parties, within 14 days after receipt of the documents for the various phases of design, the CMAR shall provide a detailed cost estimate to arrive at a GMP.
- 2.6.2 If any estimate submitted to the Owner exceeds previously accepted estimates or the Owner's Project budget, the CMAR shall make appropriate recommendations on methods and materials to the Owner that would bring the project back into the Project budget.

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- 2.6.3 In between these milestone estimates, the CMAR shall periodically provide a tracking report which identifies the upward or downward movements of costs due to value engineering or scope changes. It shall be the responsibility of the CMAR to keep the Owner informed as to the major trend changes in costs relative to the Owner's budget.
- 2.6.4 If requested by the Owner, the CMAR shall prepare a preliminary "cash flow" projection based upon historical records of similar type projects to assist the Owner in the financing process.
- 2.6.5 If this Contract is funded in whole or in part by the Federal Government, CMAR agrees to comply with the Federal labor standards provisions set forth in the Special Provisions. If the Federal prevailing wage determinations differ from the State's, CMAR shall not pay less than the higher of the two rates.

2.7 GUARANTEED MAXIMUM PRICE (GMP) PROPOSALS

- 2.7.1 The proposed GMP for the entire Work (or portions thereof) will be presented in a format acceptable to the Owner. Due to the potential for the Owner to update procedures without notice, the CMAR must verify with the Owner the current submittal requirements and procedures when entering into these services.
The Owner may request a GMP Proposal for all or any portion of the Project and at any time during the design phase for a separate construction services contract. Any GMP Proposals submitted by the CMAR will be based on and consistent with the current update/revised cost estimate at the time of the request, the associated estimates for construction costs and include any clarifications or assumptions upon which the GMP Proposal(s) are based.
- 2.7.2 Guaranteed Maximum Price is comprised of the following not-to-exceed cost reimbursable or lump sum amounts defined below.
- 2.7.2.1 The Cost of the Work is actual costs and is a not-to-exceed, reimbursable amount.
- 2.7.2.2 The Construction Fee is a firm, fixed percentage of the future Construction Services Contract total.
- 2.7.2.3 CMAR's Contingency is an amount the CMAR shall use under the following conditions:
- (1) At its discretion for increases in the Cost of the Work which are not the Owner's responsibility, or
 - (2) With written approval of the Owner for increases in General Condition Costs. CMAR's Contingency is assumed to be a direct project cost so will receive all markups at the time of GMP submission.
- 2.7.2.4 Taxes are deemed to include all sales, use, consumer and other taxes which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount.
- 2.7.3 Owner's Contingency are funds to be used at the discretion of the Owner to cover any increases in Project costs that result from Owner directed changes or unforeseen site conditions. Owner's Contingency will be added to the GMP amount provided by the CMAR, the sum of which will be the full Contract price for construction. Markups for Construction Fee and taxes will be applied by the CMAR at the time that Owner's Contingency is used. Any Owner Contingency not utilized shall revert to the Owner after Project completion.
- 2.7.4 GMPs are cumulative except for CMAR Contingency. The amount of CMAR Contingency for each GMP amendment will be negotiated separately and shall reflect the CMAR's risk from that point in the project forward.
- 2.7.5 The CMAR, in preparing any GMP Proposal will prepare its GMP in accordance with the Owner's request. The CMAR will mark the face of each document of each set of

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- Construction Documents (including all addenda) upon which its proposed GMP is based. The CMAR will send one set of those documents to the Owner's Project Manager and keep one set.
- 2.7.6 An updated/revised Project Schedule will be included with any GMP Proposal(s) that reflects the Construction Documents. Any such Project Schedule updates/revisions will continue to comply with the requirements of Section 2.3.
- 2.7.7 GMP savings resulting from a lower actual project cost than anticipated by the CMAR remaining at the end of the project will revert to Owner.
- 2.7.8 GMP Proposal(s) Review and Approval shall be prescribed below:
- 2.7.8.1 The CMAR will meet with the Owner to review the GMP Proposal(s) and the written statement of its basis. In the event the Owner discovers inconsistencies or inaccuracies in the information presented, the CMAR will make adjustments as necessary to the GMP Proposal, its basis or both.
- 2.7.8.2 The Owner upon receipt of any GMP proposal from the CMAR, may submit the GMP Plans, Specifications, and Estimate to an independent third party for review and verification. The third party will develop an independent estimate of the Cost of the Work and review the Construction Schedule for the associated scope of the GMP Proposals.
- 2.7.8.3 If the CMAR GMP Proposal is greater than the independent third party's estimate, the Owner may require the CMAR to reconfirm its GMP Proposal. The CMAR will accept the independent third party's estimate for the Cost of Work as part of the CMAR's GMP or present a report within seven days of a written request to the Owner identifying, explaining and substantiating the differences. The CMAR may be requested to, or at its own discretion, submit a revised GMP Proposal for consideration by the Owner. At that time the Owner may do one of the following:
- (1) Accept the CMAR original or revised GMP Proposal, if within the Owner's budget, without comment.
 - (2) Accept the CMAR original or revised GMP Proposal that exceeds the Owner's budget, and indicate in writing to the CMAR that the Project Budget has been increased to fund the differences.
 - (3) Reject the CMAR's original or revised GMP Proposal because it exceeds the Owner's budget or the independent third party's estimate, in which event, the Owner may terminate this Contract and/or elect to not enter into a separate Contract with the CMAR for the construction phase associated with the Scope of Work reflected in the GMP Proposal.
 - (4) With the CMAR's Contract, wait to accept the GMP Proposal if the Owner believes adequate funding will be available in the future
- 2.7.8.4 If during the review and negotiation of GMP Proposals design changes are required, the Owner will authorize and the CMAR to revise the Construction Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the final approved GMP Proposal.

2.8 **OMITTED**

3. CONTRACT AMOUNT AND PAYMENTS

3.1 CONTRACT AMOUNT FOR DESIGN/PRE-CONSTRUCTION PHASE SERVICES

- 3.1.1 Based on the design/pre-construction phase services fee proposal submitted by the CMAR and accepted by the Owner (which by reference is made a part of this Contract);

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- the Owner will pay the CMAR a **Guaranteed Maximum Price of \$150,000** which includes basic service, special services, and reimbursable items.
- 3.1.2 Requests for monthly payments by the CMAR for design phase services will be submitted on the Owner's "Contract Payment Request" form and will be accompanied by a progress report, detailed invoices and receipts, if applicable. Any requests for payment will include, at a minimum, a narrative description of the tasks accomplished during the billing period, a listing of any Deliverables submitted, and copies of any Subconsultants' requests for payment, based on their respective fee schedules in Attachment B, plus similar narrative and listings of Deliverables associated with their Work. Payment for services negotiated as a lump sum shall be made in accordance with the percentage of work completed during the preceding month. Services negotiated as a not-to-exceed fee will be paid in accordance with the work effort expended on that service during the preceding month.
- 3.1.3 The fees for the CMAR and any Subconsultants will be based upon the hourly rate schedule included as Attachment B.
- 3.1.4 The CMAR will pay all sums due Subconsultants for services and reimbursable expenses within 14 calendar days after the CMAR has received payment for those services from the Owner. In no event will the Owner pay more than 90 percent of the Contract Amount until final acceptance of all design phase services, and award of the final approved GMP for the entire Project by Owner, or Owner's election to not use CMAR for construction of the Project.
- 3.1.5 The CMAR agrees that no charges or claims for costs or damages of any type will be made by it for any delays or hindrances beyond the reasonable control of the Owner during the progress of any portion of the services specified in this Contract. Such delays or hindrances, if any, will be solely compensated for by an extension of time for such reasonable period as may be mutually agreed between the parties.
- It is understood and agreed, however, that permitting the CMAR to proceed to complete any services, in whole or in part after the date to which the time of completion may have been extended, will in no way act as a waiver on the part of the Owner of any of its legal rights herein.

3.2 ADDITIONAL DESIGN PHASE SERVICES

- 3.2.1 CMAR's Expense: CMAR will be responsible for all costs related to photo copying, telephone communications and fax communications while on Owner sites during the performance of work and services under this Contract.
- 3.2.2 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 Owner' Project Manager. CMAR may be entitled to reimbursement for the following, upon prior approval by Owner:
- (1) The actual costs of special equipment to be rented, leased or purchased by CMAR 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 Owner Project Manager.
 - (2) Printing expenses paid to outside Contractors; to the extent such Contractors and reproduction rates have been approved by the Owner Project Manager.
 - (3) Other actual costs and/or payments specifically approved and authorized in writing by the Owner Project Manager and actually incurred by CMAR in performance of this Contract
 - (4) Travel costs shall only be reimbursed if approved in advance in writing by Owner Project Manager and are subject to the following restrictions:

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- 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 and parking fees between the CMAR's "Home Based" office location and OC Public Works location, as well as mileage within OC Public Works 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 CMAR invoice(s) and documented with receipts. Receipts for reimbursable expenses must be submitted with all CMAR invoices. Invoices for reimbursable expenses without back-up receipts will not be paid. CMAR is responsible for submitting reimbursable invoices in a format that is acceptable to the Owner. Reimbursable items shall be charged at cost. Any third-party or subcontractor services shall also be charged at cost; no mark-ups will be allowed.

4. OWNER'S RESPONSIBILITIES**4.1 DISSEMINATION OF EXISTING PROJECT INFORMATION**

The Owner, at no cost to the CMAR, will furnish the following information:

- 4.1.1 One copy of data the Owner determines pertinent to the Work. However, the CMAR will be responsible for searching the records and requesting information it deems reasonably required for the Project.
- 4.1.2 All available data and information and requirements pertaining to relevant policies, standards, criteria, studies, etc.
- 4.1.3 The name of the Owner employee or Owner's representative who will serve as the Project Manager during the term of this Contract. The Project Manager has the authority to administer this Contract and will monitor the CMAR's compliance with all terms and conditions stated herein. All requests for information from or decisions by the Owner on any aspect of the Work or Deliverables will be directed to the Project Manager. Owner shall give CMAR written notification if the person designated as the Project Manager changes.

4.2 NOTIFICATION OF COMPLIANCE WITH CONTRACT REQUIREMENTS

The Owner additionally will:

- 4.2.1 Give prompt written notice to the CMAR when the Owner becomes aware of any default or defect in the Project or non-conformance with the Plans, Specifications and Estimates, or any of the services required hereunder. Upon notice of failure to perform, the Owner may provide written notice to CMAR that it intends to terminate the Contract unless the problem cited is cured, or commenced to be cured, within three days of CMAR's receipt of such notice.
- 4.2.2 Notify the CMAR of changes affecting the budget allocations or schedule.
- 4.3.3 The Owner's Project Manager, will have authority to approve the Project Budget and Project Schedule and render decisions and furnish information the Project Manager deems appropriate to the CMAR. This authority is only for the purpose of facilitating the design phase. This approval authority is not binding or a commitment upon the Owner for the purposes of Project construction.

5. CONTRACT CONDITIONS

County of Orange, OC Public Works
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- 5.1.1 County Ownership of Project Documents: All work products (electronically or manually generated) including but not limited to: cost estimates, studies, design analyses, original mylar drawings, Computer Aided Drafting and Design (CADD) file, and other related documents which are prepared specifically in the performance of this Contract (collectively referred to as Project Documents) are to be and remain the property of the Owner and are to be delivered to the Project Manager before the final payment is made to the CMAR. Nonetheless, in the event these Projects Documents are altered, modified or adapted without the written consent of the CMAR, which consent the CMAR will not unreasonably withhold, the Owner agrees to hold the CMAR harmless to the extent permitted by law, from the legal liability arising out of and or resulting from the Owner's alteration, modification or adaptation of the Project Documents.
- 5.1.2 License to Owner for Reasonable Use: The CMAR hereby grants, and will require its Subconsultants to allow the Owner, its agents, employees, and representatives for an indefinite period of time to reasonably use, make copies, and distribute as appropriate the Project Documents, works or Deliverables developed or created for the Project and this Contract. This license will also include the making of derivative works. In the event that the derivative works require the Owner to alter or modify the Project Documents, then paragraph 6.1.1 applies.
- 5.1.3 Documents to Bear Seal: When applicable and required by state law, the CMAR and its Subconsultants will sign and stamp, by an applicable California professional, all plans, works, and Deliverables prepared by them for this Contract.

5.2 AMENDMENT TO DESIGN WORK

- 5.2.1 CMAR shall make no changes in the work or perform any additional work without the Owner's specific written approval.

If such changes cause an increase in the cost of doing work or in the time required and are issued as a result of some action or inaction on the part of Owner, compensation shall be at hourly rates as indicated in the payment schedule.

Reimbursable Items Article 4 and Changes in Services Article 2 and Scope of Work, must be specifically approved by Owner in writing before work begins. All changes in scope of work that amend this Contract may be subject to approval by County of Orange Board of Supervisors.

- A. Owner Initiated: Owner may, at any time, upon written notice, direct any changes in the work within the general scope of the Contract. If Owner shall determine that a change in the scope of services of the CMAR is desirable, a written order called an "Amendment" shall be issued by Owner which shall set forth the nature of the change. When an Amendment has been issued, CMAR shall expeditiously proceed to implement the change set forth therein.
- B. If CMAR believes that a change in the scope of services is necessary and desirable to further the interests of the Project under this Contract, CMAR shall make a request, in writing, to Owner to issue an Amendment. Such requests for a Contract change shall include the proposed change in scope of work, as well as any proposed change in compensation, schedule, construction cost and time, associated with granting such an Amendment. Upon receipt of such request for a Contract scope change, Owner may reject the request; approve the request; negotiate with CMAR regarding the change in the scope of services, cost and/or change in schedule. A written Amendment will be processed by Owner and CMAR shall expeditiously proceed to implement such change.

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5.3 DATA CONFIDENTIALITY AND DATA SECURITY

- 5.3.1 Data Confidentiality: As used in the Contract, “data” means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by, obtained by, or transmitted to the CMAR or its subcontractors in the performance of this Contract.
- 5.3.1.1 The parties agree that all data, regardless of form, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the CMAR or its subcontractors in connection with the CMAR’s or its subcontractor’s performance of this Contract is confidential and proprietary information belonging to the Owner.
- 5.3.1.2 Except as specifically provided in this Contract, the CMAR or its subcontractors shall not divulge data to any third party without prior written consent of the Owner. The CMAR or its subcontractors shall not use the data for any purposes except to perform the services required under this Contract. These prohibitions shall not apply to the following data provided the CMAR or its subcontractors have first given the required notice to the Owner:
- 5.3.1.2.1 Data which was known to the CMAR or its subcontractors prior to its performance under this Contract unless such data was acquired in connection with work performed for the Owner;
- 5.3.1.2.2 Data which was acquired by the CMAR or its subcontractors in its performance under this Contract and which was disclosed to the CMAR or its subcontractors by a third party, who to the best of the CMAR’s or its subcontractor’s knowledge and belief, had the legal right to make such disclosure and the CMAR or its subcontractors are not otherwise required to hold such data in confidence; or
- 5.3.1.2.3 Data which is required to be disclosed by virtue of law, regulation, or court order, to which the CMAR or its subcontractor’s are subject.
- 5.3.1.3 In the event the CMAR or its subcontractors are required or requested to disclose data to a third party, or any other information to which the CMAR or its subcontractors became privy as a result of any other Contract with the Owner, the CMAR shall first notify the Owner as set forth in this Section of the request or demand for the data. The CMAR or its subcontractors shall give the Owner sufficient facts so that the Owner can be given an opportunity to first give its consent or take such action that the Owner may deem appropriate to protect such data or other information from disclosure.
- 5.3.4 The CMAR, unless prohibited by law, within ten calendar days after completion of services for a third party on real or personal property owned or leased by the Owner, the CMAR or its subcontractors shall promptly deliver, as set forth in this Section, a copy of all data to the Owner. All data shall continue to be subject to the confidentiality Contracts of this Contract.
- 5.3.4.1 The CMAR or its subcontractors assume all liability for maintaining the confidentiality of the data in its possession and agrees to compensate the Owner if any of the provisions of this Section are violated by the CMAR, its employees, agents or subcontractors. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. CMAR agrees that the requirements of this Section shall be incorporated into all subcontracts entered into by CMAR. A violation of this Section may result in immediate termination of this Contract without notice.
- 5.3.5 Personal Identifying Information-Data Security: Personal identifying information, financial account information, or restricted Owner information, whether electronic form to hard copy, must be secured and protected at all times. At a minimum, CMAR must encrypt and/or password protect electronic files. This includes data saved to laptop computers, computerized devices or removable storage devices.
- 5.3.5.1 When personal identifying information, financial account information, or restricted Owner information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed.

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- 5.3.5.2 In the event that data collected or obtained by CMAR or its subcontractors in connection with this Contract is believed to have been compromised, CMAR or its subcontractors shall immediately notify the Project Administrator. CMAR agrees to reimburse the Owner for any costs incurred by the Owner to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach.
- 5.3.5.3 CMAR agrees that the requirements of this Section shall be incorporated into all subcontracts entered into by CMAR. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.
- 5.3.5.4 The obligations of CMAR or its subcontractors under this Section shall survive the termination of this Contract.

5.4 PROJECT STAFFING

- 5.4.1 Prior to the start of any Work or Deliverable under this Contract, the CMAR will submit to the Owner, an organization chart for the CMAR staff and Subconsultants and detailed resumes with pictures of key personnel listed in its response to the Owner's Request for Qualifications or subsequent fee proposals (or revisions thereto), that will be involved in performing the services prescribed in the Contract. Unless, otherwise informed, the Owner hereby acknowledges its acceptance of such personnel to perform such services under this Contract. In the event the CMAR desires to change such key personnel from performing such services under this Contract, the CMAR will submit the qualifications of the proposed substituted personnel to the Owner for prior approval. Key personnel will include, but are not limited to, principal-in-charge, project manager, superintendent, project director or those persons specifically identified to perform services of cost estimating, scheduling, value engineering, and procurement planning.

- 5.4.2 The CMAR will maintain an adequate number of competent and qualified persons, as determined by the Owner, to ensure acceptable and timely completion of the scope of services described in this Contract throughout the period of those services. If the Owner objects, with reasonable cause, to any of the CMAR's staff, the CMAR will take prompt corrective action acceptable to the Owner and, if required, remove such personnel from the Project and replace with new personnel acceptable to the Owner. If CMAR breaches this section, it will be considered an event of default under this Contract.

An Owner appointed project manager to act as liaison between the Owner and the contractor, and to carry out the administration of this contract. The Owner's Project Manager shall coordinate the activities of the Owner's staff assigned to work with the CMAR. The Owner's Project Manager shall have the right to require the removal and replacement of the CMAR's Project Manager and key personnel. The Project Manager shall notify the CMAR in writing of such action. The CMAR shall accomplish the removal within 14 calendar days after written notice by the Project Manager. The Project Manager shall review and approve the appointment of the replacement for the CMAR's Project Manager and key personnel. Said approval shall not be unreasonably withheld. The Project Manager shall have the authority to administer the rights and responsibilities of Owner so long as the Project Manger's actions do not affect the legal rights and obligations of Owner.

5.5 EMPLOYEE ELIGIBILITY VERIFICATION

- 5.5.1 CMAR shall indemnify, defend with counsel approved in writing by Owner, and hold harmless, the Owner, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against CMAR or the Owner 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.

County of Orange, OC Public Works
Brea Boulevard Bridge Replacement and Corridor Enhancement Project**5.6 ERRORS AND OMISSIONS**

- 5.6.1 All Projects/Services submitted by CMAR shall be complete and shall be carefully checked prior to submission. CMAR understands that Owner's checking is discretionary, and CMAR shall not assume that Owner will discover errors and/or omissions. If Owner discovers any errors or omissions prior to approving CMAR's Projects/Services, the Projects/Services will be returned to CMAR for correction. Should Owner or others discover errors or omissions in the work submitted by CMAR after Owner's approval thereof, Owner's approval of CMAR's Projects/Services shall not be used as a defense by CMAR.
- 5.6.2 If CMAR subcontracts portions of the architectural or engineering design Projects/Services to be performed under the terms of this Contract, CMAR shall obtain evidence that such subcontractors have purchased Professional Liability Insurance to the same limits as described in Paragraph 6.15.4 and containing the same clauses as the insurance required of CMAR under the terms of this Contract. Evidence of subcontractor's insurance shall be submitted to Owner upon request.

5.7 CONSENT TO BREACH NOT WAIVER

- 5.7.1 No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented.
- 5.7.2 Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

5.8 REMEDIES NOT EXCLUSIVE

- 5.8.1 The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.

5.9 PAYROLL RECORDS

- 5.9.1 The requirements of Labor Code Section 1776 provide in part:
CMAR and any subcontractor(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 CMAR or any subcontractor(s) in connection with the work.
- 5.9.2 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:
- (1) The information contained in the payroll record is true and correct.
 - (2) 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.
- 5.9.3 The payroll records shall be certified and shall be available for inspection at the principal office of CMAR on the basis set forth in Labor Code Section 1776.
- 5.9.4 CMAR shall inform Owner of the location of the payroll records, including the street address, city and Owner, and shall, within five working days, provide a notice of any change of location and address of the records.
- 5.9.5 Pursuant to Labor Code Section 1776, CMAR and any subcontractor(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 CMAR or any subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to Owner, forfeit \$100, or a higher

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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. CMAR acknowledges that, without limitation as to other remedies of enforcement available to Owner, 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 CMAR. CMAR is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

5.10 WAGE RATES

5.10.1 CMAR and any subcontractor(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. CMAR 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 Owner'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, CMAR and any subcontractor(s) shall not pay less than the higher of these rates or the rates determined by the United States Department of Labor.

5.11 PUBLIC RECORDS ACT

5.11.1 Pursuant to the California Public Records Act ("CPRA"), Government Code Sections 6250 et seq., all records provided by Contractor to Owner are subject to public disclosure upon request except as otherwise provided by law. Prior to their submission to Owner, Contractor shall identify any records it believes are exempt from disclosure, and identify the applicable CPRA exemption. If the disclosure of such records is subsequently requested, Owner will notify Contractor of such request. Unless Contractor obtains a protective order issued by a court restricting disclosure of the requested records, Owner may disclose the records if Owner determines that the Public Records Act requires disclosure. Contractor shall indemnify and defend Owner in any action to compel disclosure of such records.

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ATTACHMENT A
SCOPE OF WORK**I. Project Location**

The Brea Boulevard Bridge Replacement and Corridor Enhancement Project (Project) involves replacing and widening 3 bridges along Brea Boulevard and enhancing the corridor from Canyondale Drive to approximately 1,200 feet northeast of Tonner Canyon Road. Owner is evaluating extending the Project limits to integrate with the Southbound SR-57 onramp approximately 450 feet northeast of current project limits. The bridge replacements are located within unincorporated Orange County and the corridor enhancements is approximately 7560 feet or 1.4 miles in length (“project limits”) and located within both the City of Brea (25 % of length) and unincorporated Orange County (75 % of length). A location map is attached as Exhibit 1.

II. Project Background

OC Public Works has identified a need to replace and widen three bridges, construct retaining walls, and enhance the corridor along Brea Boulevard as a Phase I to the planned Phase II. Phase II will involve construction of the road widening under a separate Design-Bid-Build contract.

There are 3 existing bridges over Brea Creek that were constructed circa 1929 and 1930 and require replacement per Caltrans Bridge Inspection Reports. To replace and widen the bridges, temporary traffic handling is required to shift traffic during the staged construction. The traffic handling requires temporary transition pavement to safely convey traffic from the existing roadway to the newly constructed bridges. The minimum safe pavement transition length cannot be met between the three bridges requiring temporary transition pavement to connect bridge to bridge. Retaining walls and associated grading is needed to avoid unsafe abrupt changes in elevation from the roadway to the bridges during traffic handling.

The corridor beyond the bridges will be enhanced by constructing retaining walls and associated grading to widen the corridor for Phase II. The grading is needed to construct the wall and retain the cut or fill slopes.

To maintain access to private properties, driveways will be modified/constructed throughout the corridor.

III. Project Scope of Work

- A. The Project enhancements within the project limits for the first stage of construction consist of the following:
 1. Relocation and/or abandon existing utilities and/or features, including oil field related systems and equipment;
 2. Obtain temporary construction easements and/or temporary rights of entry from adjacent private properties;
 3. Construction of drainage features, and;
 4. Construction of utility infrastructure needed for utility companies to relocate their own facilities, including Bridge Energy or current oil field operator(s).
- B. The Project enhancements within the project limits for Stage 2 of the contract consist of the following:
 1. Replacement of the three 3 existing bridges over Brea Creek which will upgrade the bridges to current Caltrans design standards and will provide a desired service life of 75 years. The three (3) existing bridges are:
 - a. Bridge 1 (#55C0121) - existing double span reinforced concrete box culvert bridge
 - b. Bridge 2 (#55C0122) - existing reinforced concrete bridge (with one (1) center pier)
 - c. Bridge 3 (#55C0123) - existing reinforced concrete bridge (with two (2) center piers)

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2. Construction of pavement transitions between the existing roadway and the newly constructed bridges;
3. Construction of temporary pavement transitions between the newly constructed bridges;
4. Construction of permanent retaining walls and associated grading necessary to facilitate the construction of the bridges;
5. Rehabilitation and/or modification of Brea Creek in the areas affected by the bridge replacements;
6. Construction of temporary and/or permanent driveways for the oil field operator(s).
7. Construction of retaining walls and associated grading as part of the corridor enhancement;
8. New construction of and/or improvements to minor water quality facilities and/or features, environmental mitigation measures and/or features;
9. Provide assistance for procurement of permanent right-of-way for both the corridor and retaining walls to facilitate the completion of the project; and
10. All other items indicated on the contract documents.

- C. The intent of stage 1 is to construct the infrastructure needed for the oil field operator and utility companies to relocate their utilities prior to the commencement of stage 2. The utility relocation(s) within stage 2 will only involve utility relocations related to the construction of Bridge #1, Bridge #2, and Bridge #3 or unknown utilities discovered during construction.

IV. Construction Methods

The CMAR will be required to submit in writing, as specific as possible, the expected construction means and methods (“WORK PLAN”) to complete the Project, taking into consideration the environmental regulatory agency, city, project site, oil field operator(s), and all adjacent property owners. Adverse impacts include, but are not necessarily limited to, impacts to the public, water quality, public access, and oil field operations. The WORK PLAN shall make attempts to limit these potential impacts. More detailed requirements on the WORK PLAN are listed in Section II Response Requirements part 3 subsection 3.

Contractor must coordinate and cooperate with the oil field operator(s), and all adjacent oil field property owners prior to submitting expected construction means and methods.

V. Status of Regulatory Permits

Owner has a Regulatory Permits and Project Management team that will lead the submittal and coordination effort for regulatory permits. The Project will require, but is not limited to, the following regulatory permits:

1. California Department of Fish and Wildlife Fish and Game Code section 1602;
2. California State Water Resources Control Board Clean Water Act section 401; and
3. United States Army Corps of Engineers Clean Water Act section 404.

The CMAR shall be responsible for assisting and supporting the Owner in the procurement of the regulatory permits.

VI. Compliance with the California Environmental Quality Act

Owner has conducted an Initial Study for both Phase I and Phase II and has determined that an Environmental Impact Report (“EIR”) is necessary. An A-E hired by the Owner will provide a complete EIR that may affect the construction methods and/or construction scope of work stated above. The EIR will include both Phase I, Phase II and the associated flood improvements.

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VII. Status of Utility Investigation

An Architectural Engineer hired by the Owner will incorporate utility information from utility companies, Bridge Energy or current oil field operator(s), and utility investigation that is deemed necessary by the A-E and the Owner. Any additional utility information deemed necessary by the CMAR must be submitted to the Owner for evaluation. Upon written approval from Owner, CMAR can perform utility investigation(s) at their own cost.

VIII. Status of Right-of-Way

The existing right-of-way (“ROW”) within the proposed project limits varies from 60 feet to approximately 100 feet in width. Based on the proposed project work, additional right-of-way (approximately an additional 20 feet to 30 feet beyond the existing right-of-way) will likely need to be obtained to accommodate the enhancements within the proposed project limits.

CMAR shall identify and assist the Owner with procurement of permanent ROW needed to complete the Project which includes but is not limited to: roadway easement, slope easements, and retaining wall easements. CMAR shall identify and assist the Owner with procurement of temporary ROW needed to complete the Project.

IX. Design Phase Services Scope of Work

In addition to the list of design phase services in Section I.B.1 of this RFP and the basic design phase services described in Section III Model Contract Design (Brea Boulevard Bridge Replacement and Corridor Enhancement) and Section IV Model Contract Design (A04 Brea Canyon Channel Improvements) of this RFP, the CMAR may be required to provide the following:

1. Provide a detailed description of the means and methods, equipment to be used, a diagram of where the equipment will be used and stored, and the materials selected in order to complete the project.
2. Assist in identifying necessary staging and storage areas for construction materials & equipment, work trailers for Owner and contractor staff, portable restrooms, storage containers and employee vehicle parking.
3. Upon approval from the Owner, CMAR shall procure the necessary staging and storage areas for construction materials & equipment, work trailers for Owner and contractor staff, portable restrooms, storage containers and employee vehicle parking.
4. Provide a detailed and phased traffic control plan, material hauling plan that will be approved by the City of Brea and the Owner.
5. Determine the necessary impacts to complete the project and help the Owner identify the required right-of-way, temporary construction easements, utility easements, and slope easements.
6. Obtain temporary construction easements and assisting the Owner with acquisition of permanent land rights (fee, easements, etc.) as needed.
7. Assist in identifying construction constraints.
8. Review draft and final regulatory permits conditions, correspondence with regulatory agencies and participate in meetings with regulatory agencies.
9. Develop and implement a public outreach plan that outlines approaches to addressing public relations, community outreach and stakeholder involvement.

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10. Coordination with the City of Brea, Owner, utility agencies, residents, oil field operator Bridge Energy or current operator(s), and all adjacent property owners.

X. Construction Phase Services Scope of Work

In addition to the list of construction phase services in Section I.B.2 of this RFP and the basic construction phase services described in Section V Model Contract Construction (Brea Boulevard Bridge Replacement and Corridor Enhancements) of this RFP, the CMAR may be required to provide the following:

1. Public outreach to notify & educate the public on upcoming construction activities.
2. A qualified biological monitor, approved by the Owner, to perform biological monitoring during construction (if applicable).
3. Coordination with the City of Brea, Owner, utility agencies, residents, oil field operator Bridge Energy or current operator(s), and all adjacent property owners.

XI. Proposed Project Schedule of Major Milestones (subject to change)

- Finalize construction drawings and specifications (Brea Boulevard Bridge Replacement and Corridor Enhancements) – June 2019
- Negotiate design GMP, issue Notice to Proceed, process insurance & bonding (Brea Boulevard Bridge Replacement and Corridor Enhancements) – January 2020 to January 2021
- Complete VE/constructability review (Brea Boulevard Bridges & Corridor Enhancements) – March 2020 to March 2021
- Updated plans (Brea Boulevard Bridge Replacement and Corridor Enhancements) – May 2020 to May 2021
- Negotiate construction GMP, issue Notice to Proceed, process insurance & bonding (Brea Boulevard Bridge Replacement and Corridor Enhancements) – June 2020 to June 2021
- Complete construction – June 2022 to June 2023

Note: Schedule is contingent upon right-of-way acquisition and CEQA approval.

XII. The following documents have been uploaded into Bidsync with this RFP:

Refer to the table of contents of this RFP for exhibits.

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Brea Boulevard Bridge Replacement and Corridor Enhancement ProjectATTACHMENT B
PRICE PROPOSAL
BREA BLVD. BRIDGE REPLACEMENT AND CORRIDOR ENHANCEMENT

- I. **COMPENSATION:** This is a Not-to-Exceed Guaranteed Maximum Price (GMP) Contract between the County and CMAR for design services for Brea Boulevard Bridge Replacement and Corridor Enhancement Project, as set forth in Attachment A, Scope of Work.

CMAR 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 CMAR of all its duties and obligations hereunder. CMAR 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 GMP specified herein below unless authorized by amendment in accordance with Paragraphs 6.3 and 6.19 of the County Contract Terms and Conditions.**

II. **PRICE:**A. **Proposed Fee:**

Design Services Fee:	\$116,000
OWNER Contingency:	\$34,000
<u>Total Design Services GMP for the Project:</u>	\$150,000
Construction Services Profit Margin:	5%
Construction Services Labor & Overhead:	7%
<u>Total Construction Fee for the Project:</u>	12%

B. **Classification Rates:**

CMAR CONTRACTOR – AMES CONSTRUCTION, INC.	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Project Manager	\$181
Construction Manager	\$177
Structures Manager	\$199
Superintendent	\$172
Project Engineer	\$133
Chief Estimator	\$181
Estimator	\$168
Scheduler	\$142
Pre-Con Coordinator	\$142
Project Administrator	\$72
Environmental Manager	\$133

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Attachment A
MA-080-20010978

Safety Manager	\$133
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SUBCONTRACTOR – WESTBOUND COMMUNICATIONS	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Public Relations	\$170

SUBCONTRACTOR – HARVEY CONSULTING GROUP	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Principal Environmental Consultant	\$237
Senior Scientist	\$226

*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.

- III. PRICE INCREASES/DECREASES:** No price increases will be permitted during the term of this Contract. All price decreases will automatically be extended to the County.
- IV. FIRM DISCOUNT AND PRICING STRUCTURE:** CMAR 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. CMAR agrees that no price increases shall be passed along to the county during the term of this Contract not otherwise specified and provided for within this Contract.
- V. CMAR EXPENSE:** CMAR 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. 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 CMAR. Incomplete or incorrect invoices are not acceptable and will be returned to the CMAR for correction.

Billing shall cover services and/or goods not previously invoiced. The CMAR shall reimburse the County for any monies paid to the CMAR for goods or services not provided or when goods or services do not meet the Contractor 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.

- VII. INVOICING INSTRUCTIONS:** The CMAR will provide an invoice on the CMAR's letterhead. Each invoice will have a unique number and will include the following information:
- A. Name and address
 - B. Remittance address, if different from (A), above
 - C. Name of County agency/department
 - D. Delivery/service address
 - E. Contract number
 - F. Service Date

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- G. Description of Services
- H. Total
- I. Taxpayer ID number

Invoices and support documentation are to be forwarded to:

OC Public Works
Infrastructure Programs/Project Management
Attn: Austin Morgan
601 N. Ross St.
Santa Ana, CA 92701

CMAR 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 PLAN
 BREA BLVD. BRIDGE REPLACEMENT AND CORRIDOR ENHANCEMENT

1. **KEY PERSONNEL**

Name	Classification/Designation	Years of Experience	Licenses/Certifications (include license number)
Tim Wilson	Principal-in-Charge	31	PE (CA) - C50552 OSHA 30
Rob Manning	Project Manager	16	PE (AZ) - 51468 CPC - 8532 QSD - 27330 CPESC - 9457 OSHA 30
Curt Scanlon	Construction Manager	31	OSHA 30
Tim Boyer	Structures Manager	34	OSHA 30
Tony Mendez	Chief Estimator	27	OSHA 30
Jeff Klante	Safety Manager	33	OSHA 500,501,511,521 2045,2225,3015,3095 3115,2255 CHST - 9149 California State Fire Master Instructor Certified State Fire Officer

CMAR 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 CMAR'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 CMAR Key Personnel is for departmental use only and shall not be used for auditing purposes outside OC Public Works.**

CMAR may reserve the right to involve other CMAR 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 CMAR Key Personnel is for departmental use only and shall not be used for auditing purposes outside OC Public Works.** County reserves the right to have any CMAR 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 CMAR personnel.

2. **SUBCONTRACTOR(S)**

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

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Company Name & Address	Contact Name and Telephone Number	Project Function
Harvey Consulting Group, Inc. 1861 Coarse Gold Pl. Gold River, CA 95670	Jeff Harvey – (916) 799-6065	Environmental Permitting
Westbound Communications 625 The City Dr., Suite 480 Orange, CA 92868	Scott Smith – (714) 663-8111	Public Relations

ATTACH ADDITIONAL SHEET(S) IF NECESSARY