

CONTRACT

THIS CONTRACT, hereinafter referred to as “Contract” for purposes of identification hereby numbered MA-080-24010688, by and between the County of Orange, a political subdivision of the State of California, hereinafter referred to “County,” Orange County Flood Control District, a body corporate and politic, hereinafter referred to as “District,” and Towill, Inc, a California Corporation, hereinafter referred to as “A-E,” or “Contractor” which are sometimes individually referred to as “Party” or collectively referred to as “Parties.”

RECITALS

WHEREAS, County and District require professional services to accomplish projects and/or services (“PROJECTS/SERVICES”) as described in MA-080-24010688 Scope of Work for On-Call Aerial Surveying Services, hereinafter referred to as “Attachment A,”; and

WHEREAS, the District relies on County staff to carry out its duties pursuant to the Orange County Flood Control District Act, Water Code App. §§ 36-1 et seq., and County staff may request Contractor to perform services under this Contract on behalf of District; and,

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

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

1. GENERAL**1.1. Retainer**

1.1.1. County does hereby retain A-E to perform the Projects/Services as required by this Contract.

1.1.2. A-E has offered, and County has accepted, the professional services of Brian Young and A-E shall assign him/her to the Projects/Services.

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

1.1.4. Consultants/contractors may be substituted and/or added by mutual Contract of A-E and the Director, County of Orange, OC Public Works or his designee, hereinafter referred to as “Director”.

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

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

- a. Project/Services to be performed by A-E shall consist of the work as specified herein and as required in Attachment A, attached hereto and incorporated herein by reference. If in the event Attachment A shall be in conflict with any provision of this Contract, the wording as set forth in Attachment A shall prevail.

- b. A-E shall be responsible for submitting all Projects/Services to County in a form which has been thoroughly reviewed and checked for completeness, accuracy and consistency by the registered professional named in Section 1.1.2 herein; and, any Projects/Services not meeting this requirement will be returned to A-E prior to review by County.

1.2.2. Design Criteria and Standards

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

1.2.3. Scheduling

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

1.3. Assistance by County Staff

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

1.3.2. All of the above activities, however, shall be the primary responsibility of A-E to schedule, initiate and carry through to completion.

1.4. Term and Maximum Compensation

The term of this Contract is for three (3) years commencing upon Board of Supervisor approval or all execution of all necessary signatures, whichever occurs later, with a **MAXIMUM AGGREGATE ALLOWABLE COMPENSATION IS FIVE HUNDRED THOUSAND DOLLARS (\$500,000)**, except as permitted in Paragraph 1.5 below. The Parties have the option to extend the Contract for up to two (2) additional years with Board of Supervisors approval.

1.5. A-E Compensation and Extra Work

1.5.1. For the Projects/Services authorized under this Contract, A-E shall be compensated in accordance with the following:

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

1.5.3. Where Extra Work is authorized for Projects/Services:

- a) The amount for Extra Work shall be determined using Attachment B. Extra Work shall be required by and ordered in writing by Director. If this Contract is not approved by the Board of Supervisors, any change that increases the cumulative Contract price beyond \$200,000 must be approved by the Board. Extensions and increases in the Contract amount for services within the existing scope of work may be granted by the Director where the amount does not exceed 25 percent of the existing Contract price or \$200,000, whichever is less.
- b) A-E's billing for the Extra Work shall include but not be limited to names of A-E's staff employed in the Extra Work, classification of employees and number of hours worked.

1.5.4. For partial completion of work of Projects/Services followed by default on part of A-E:

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

1.5.5. Upon approval by Director or designee, Contract may be extended by amendment for a period of not more than six (6) months, so long as there is no increase in cost to the County or change in the scope of work.

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

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

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

2.2 Non-Discrimination

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

2.3 Employee Eligibility Verification

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

2.4 Independent Contractor

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

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

2.5 Conflict of Interest Contractor Personnel

- 2.5.1** The A-E shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the A-E; the A-E's employees, agents, and relatives; sub-tier contractors; and third parties associated with accomplishing work and Projects/Services hereunder.
- 2.5.2** A-E's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from: making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.

2.6 Labor Code Notice

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

3. INSURANCE

Prior to the provision of services under this Contract, the A-E agrees to carry all required insurance at A-E's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. A-E agrees to keep such insurance coverage current, provide Certificates of Insurance, and endorsements to the County during the entire term of this Contract. The County reserves the right to request the declarations page showing all endorsements and a complete certified copy of the policy.

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

All self-insured retentions (SIR)'s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from A-E. If A-E is self-insured, A-E will indemnify the County and District for any and all claims resulting or arising from A-E's services in accordance with the indemnity provision stated in this Contract.

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

Qualified Insurer

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**).

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

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence
(Including coverage for unmanned aerial vehicles)	\$2,000,000 aggregate
Automobile Liability including coverage for scheduled, non-owned, and hired vehicles	\$1,000,000 combined owned or single limit each accident
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per accident or disease
Professional Liability Insurance	\$1,000,000 per claims-made or occurrence \$2,000,000 aggregate

Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provide Follow Form coverage.

Required Coverage Forms

The Commercial General Liability coverage shall be written on occurrence basis Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

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 at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange, Orange County Flood Control District, and their elected and appointed officials, officers, employees, and agents*** as Additional Insureds, or provide blanket coverage which shall state ***As Required by Written Contract***.
- 2) A primary non-contributory endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that A-E's insurance is primary, and any insurance or self-insurance maintained by the County shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against ***the County of Orange, Orange County Flood Control District, and their elected and appointed officials, officers, employees, and agents***, or provide blanket coverage which shall state ***As Required by Written Contract***.

If the A-E's Professional Liability policy is a claims-made policy, A-E shall agree to the following:

- 1) The retroactive date must be shown and must be before the date of the Contract or the beginning of the Contract services.
- 2) Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of Contract services.

If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Contract services, A-E must purchase an extended reporting period for a minimum of three (3) years after expiration of earlier termination of the Contract. All insurance policies required by this Contract shall waive all rights of subrogation against the ***County of Orange, Orange County Flood Control District, and their elected and appointed officials, officers, employees, and agents*** when acting within the scope of their appointment or employment.

A-E shall provide thirty (30) days prior written notice to the County of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

The Commercial General Liability policy shall contain a severability of interests clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the A-E fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require A-E to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify A-E in writing of changes in the insurance requirements. If A-E does not provide copies of acceptable Certificates of Insurance and endorsements to County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to A-E, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit A-E's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

4. INDEMNITY/COMPLIANCE**4.1 Indemnification**

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

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

4.1.3 A-E agrees to, indemnify, defend with counsel approved in writing by County, and hold County of Orange, Orange County Flood Control District, and their elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the A-E. If judgment is entered against A-E and County by a court of competent jurisdiction because of the concurrent active negligence of A-E and County, District, or County Indemnitees, A-E and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment. Notwithstanding anything stated above, nothing contained herein shall relieve A-E of any insurance requirements or obligations created elsewhere in this Contract.

4.2 Bills and Liens

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

4.3 Compliance with Laws

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

4.3.2 A-E acknowledges that County is relying on A-E for such compliance, and pursuant to the requirements of the indemnification paragraph above, **A-E agrees that it shall defend, indemnify and hold County, District, and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.**

5. TERMINATION

5.1 Termination of Contract for Cause

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

5.1.2 A-E shall have the opportunity to cure the alleged breach prior to termination.

5.1.3 In the event the alleged breach is not cured by A-E prior to termination, all work performed by A-E pursuant to this Contract, which work has been reduced to plans or other documents, shall be made available to County.

5.2 Termination for Convenience

5.2.1 Notwithstanding any other provision of the Contract, County may at any time, and without cause, terminate this Contract in whole or in part, upon not less than seven (7) calendar days' written notice to the A-E. Such termination shall be effected by delivery to the A-E of a notice of termination specifying the effective date of the termination and the extent of the Work to be terminated.

5.2.2 A-E shall immediately stop work in accordance with the notice and comply with any other direction as may be specified in the notice or as provided subsequently by County.

5.2.3 County shall pay the A-E for the Work completed prior to the effective date of the termination, and such payment shall be the A-E's sole remedy under this Contract.

5.2.4 Under no circumstances will A-E be entitled to anticipatory or unearned profits, consequential damages, or other damages of any sort as a result of a termination or partial termination under this Paragraph.

5.2.5 A-E shall insert in all subcontracts that the 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

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

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

5.4 Default

- 5.4.1** In the event any equipment or service furnished by the A-E in the performance of this Contract should fail to conform to the specifications therein within one (1) calendar year from the County's acceptance of the equipment or service, or any performance period specifically specified within the specifications or Contract, whichever is greater, the County may reject same, and it shall become the duty of the A-E to reclaim and remove the items without expense to the County and to immediately replace all such rejected equipment or service with others conforming to such specifications, provided that should the A-E fail, neglect or refuse to do so within one hundred and twenty (120) calendar days, the County shall have the right to purchase on the open market a corresponding quantity of any such equipment or service and to deduct from any monies due or that may thereafter become due to the A-E the difference between the price specified in this Contract and the actual cost to the County.
- 5.4.2** In the event the A-E shall fail to make prompt delivery as specified of any equipment or service, the same conditions as to the rights of the County to purchase on the open market and to reimbursement set forth above shall apply, except as otherwise provided in this Contract.
- 5.4.3** In the event of the cancellation of this Contract, either in whole or in part, by reason of the default or breach by the A-E, any loss or damage sustained by the County in procuring any equipment or service which the A-E agreed to supply under this Contract shall be borne and paid for by the A-E.
- 5.4.4** Default shall include failure to carry out any of the requirements of this Contract, including, but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the Projects/Services as agreed to herein, or otherwise substantially violating any provision of this Contract.
- 5.4.5 Orderly Termination:** Upon termination of this Contract for any reason, each Party shall assist the other Party in transferring all assets, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party, including all data and any unfinished, preliminary or draft documents. Each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of performance of this Contract.
- 5.4.6** The right of either party to terminate this Contract hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

6. MISCELLANEOUS**6.1 Laws to be Observed**

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

6.2 Award of Construction Contract and Other Future Contracts

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

6.3 Amendments

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

6.4 Successors and Assigns

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

6.5 Entirety

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

6.6 Severability

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

6.7 Binding Obligation

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

6.8 Governing Law and Venue

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

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

6.9 Intentionally Omitted**6.10 Ownership of Documents**

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

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

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

6.11 Confidentiality

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

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

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

6.12 Publication

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

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

6.13 Records and Audit/Inspections

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

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

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

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

6.14 Notices

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

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

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

For A-E: Towill, Inc.
2300 Clayton Road, Suite 1200
Concord, CA 94520
Attn: Brian Young
Phone: (925) 682-6976 x 1041
E-mail: Brian.Young@towill.com

For County: OC Public Works, OC Survey
2301 N. Glassell St.
Orange CA 92865
Attn: Kevin Stephens
Phone: 714-967-0806
E-mail: Kevin.Stephens@ocpw.ocgov.com

cc: OC Public Works Procurement Services
601 N. Ross St.,
Santa Ana, CA 92701
Attn: Derek Savosh
Phone: 714-667-9668
E-mail: Derek.Savosh2@ocpw.ocgov.com

6.15 Attorney's Fees

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

6.16 Interpretation

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

6.16.2 In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite having the opportunity to do so.

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

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

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

6.17 Headings

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

6.18 Acceptance

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

6.19 Changes

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

6.20 Assignment

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

6.21 Changes in Ownership

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

6.22 Force Majeure

A-E shall not be assessed with damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided A-E gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and A-E avails himself of any available remedies.

6.23 Calendar Days

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

6.24 Title to Data

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

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

6.25 Availability of Funds

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

6.26 Contingency of Funding

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

6.27 Contract Construction

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

6.28 Conflicts of Interest

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

6.28.2 If subject to the Act, A-E shall conform to all requirements of the Act. Failure to do so shall constitute a material breach and is grounds for immediate termination of this Contract by County. Pursuant to Section 4.1 "Indemnification", A-E shall indemnify and hold harmless County and District for any and all claims for damages resulting from Contractor's violation of this Section.

6.29 Wage Rates

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

6.30 Apprenticeship Requirements

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

6.31 Registration of Contractor

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.

6.32 Payroll Records

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

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

Contractor 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 Contractor or any Subcontractor(s) in connection with the work.

6.32.3 Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- a. The information contained in the payroll record is true and correct.
- b. The employer has complied with the requirements of Labor Code Sections 1771, 1811, and 1815 for any work performed by his or her employees in connection with the Contract.

- 6.32.4** The payroll records shall be certified and shall be available for inspection at the principal office of Contractor on the basis set forth in Labor Code Section 1776.
- 6.32.5** Contractor shall inform County of the location of the payroll records, including the street address, city and county, and shall, within five working days, provide a notice of any change of location and address of the records.
- 6.32.6** Pursuant to Labor Code Section 1776, Contractor 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 Contractor or any Subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to County, forfeit \$100, or a higher amount as provided by Section 1776, for each calendar day, or portion thereof, for each worker to whom the noncompliance pertains, until strict compliance is effectuated. Contractor acknowledges that, without limitation as to other remedies of enforcement available to County, upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement of the California Department of Industrial Relations, such penalties shall be withheld from progress payments then due Contractor. Contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.
- 6.32.7** Contractor 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. Contractor shall post a copy of these wage rates at the job site for each craft, classification, or type of worker needed in the performance of this Contract, as well as any additional job site notices required by Labor Code Section 1771.4(b). Copies of these rates are on file at the principal office of County's representative, or may be obtained from the State Office, Department of Industrial Relations ("DIR") or from the DIR's website at www.dir.ca.gov. If the Contract is federally funded, Contractor and any Subcontractor(s) shall not pay less than the higher of these rates or the rates determined by the United States Department of Labor.

6.33 Work Hour Penalty

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

6.34 Apprentices

- 6.34.1** The Contractor acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code Section 1777.5, this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of the Contractor to ensure compliance with this Article and with Labor Code Section 1777.5 for all apprenticeable occupations.
- 6.34.2** Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the Contractor and any subcontractors under him employing workers in any apprenticeable craft or trade in performing any work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the Contractor or subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the work.

6.34.3 Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, he Contractor and any subcontractor under him may be required to make contributions to the apprenticeship program.

6.34.4 The Contractor and all subcontractors under him shall comply with Labor Code Section 1777.6 which Section forbids certain discriminatory practices in the employment of apprentices.

6.35 Safety

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

6.36 Cooperative Agreement

6.36.1 The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use the pre-negotiated prices and terms in this Contract will be responsible for issuing their own purchase documents/contracts, providing for their own acceptance, and making any subsequent payments. A-E shall be required to include in any contract entered into with another department or entity that is entered into and incorporates by reference the pre-negotiated prices and terms of this Contract a contractual clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this Contract. Failure to do so will be considered a material breach of this Contract by A-E and grounds for immediate Contract termination. Departments or entities making use of the pre-negotiated prices and terms of this Contract are responsible for obtaining all certificates of insurance and bonds required when entering into their own contract. The A-E is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

6.36.2 The A-E shall be required to maintain a list of the cooperative entities using this Contract. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.

6.37 Usage

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

6.38 Levine Act Requirement

A-E agrees to comply with Government Code Section 84308. A-E further agrees to disclose to the County any contribution made to any members of the Board of Supervisors or County Agency Officers by A-E, A-E's agent or lobbyist, or, if applicable, any subcontractor(s) for the twelve (12) months prior to and twelve (12) months following the approval, renewal, or extension of this Contract.

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

TOWILL INC,
a California Corporation,

Date: 3/23/2024

DocuSigned by:
By: Ken A. Meme
Signature 981F8400...

Ken A. Meme - President
Print Name & Title

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

Date: 3/21/2024

DocuSigned by:
By: Brian K. Young
Signature 00BB914EE...

Brian K. Young - 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; and,
**COUNTY OF ORANGE FLOOD CONTROL
DISTRICT,** a body corporate and politic

Date: _____

By: _____

Print
Name: _____

Title: _____

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

DocuSigned by:
By: William Ninh
Signature C88031248AC049C...

Print Name: William Ninh

Date: 3/25/2024

**ATTACHMENT A
SCOPE OF SERVICES****I. INTRODUCTION**

OC Public Works, on behalf of the County of Orange (County) and Orange County Flood Control District, requires supplemental professional services to meet workload demands and project scheduling commitments in relation to Architect/Engineer (A-E) Design, Project Administration and Management Services for various projects. A-E is defined as an Architect or Engineer for design and/or engineering of a project. To supplement existing resources, County intends to issue "On-Call Aerial Surveying Services" for use by Orange County on an "as-needed" basis. No specified amount of work is guaranteed to A-E. However, the amount of negotiated contracted work that will be required on an "as-needed" basis shall not exceed Five Hundred Thousand Dollars (\$500,000) in the initial term.

II. GENERAL DESCRIPTION OF SERVICES

The A-E will be contacted by County Project Management staff on an "as-needed" basis as projects arise to provide A-E for professional services. Requirements will be discussed by both Parties and A-E shall prepare a written *Scope Statement* that will include the specific work to be performed, including the costs and time required to complete the project/task. Orange County Project Management staff will then review the A-E's *Scope Statement*, proceed with negotiation of task costs and when satisfied, issue a Contract Task Order (CTO) against this Contract.

The A-E shall serve as lead of a design team that may include other construction design professionals working together to ensure that the original design is carried through to the finished product, with no alterations in materials or design that would lead to safety issues or compromise the quality of the building or building component. Other team members who may be retained by the lead to support a project as a consultant may include but are not limited to landscape architects, lighting designers, data consultants, security consultants, controls engineers, commissioning consultants, traffic engineers, surveyors, estimators, special inspection, etc.

The A-E shall be responsible for the preparation of comprehensive building assessments, designs, drawings, specifications, cost estimates, and reports within the scope of the Contract Task Order (CTO). In the preparation of construction drawings and specification, the A-E shall also responsible for:

- A. Obtaining data by reviewing record drawings, visiting the site of the construction and by conferences with the User/Client and facility maintenance staff or by other actions as necessary to develop the design;
- B. Checking of shop drawings, submittals, materials and other data submitted by the Construction Contractor for approval;
- C. Furnishing consultation and advice to County to clarify the intent of the drawings and specifications and on questions that may arise during the construction of the project;
- D. Space planning, programming and code compliance review and upgrades;
- E. The meeting of submittal dates included in the *Scope Statement* of the Contract Task Order, including the work of consultants;
- F. Coordination with various agencies having authority of jurisdiction for planning services, entitlement, fire life safety, CEQA, ADA, etc.;

- G. Construction administration services, testing and commissioning;
- H. Close out services, as-built plans, material lists, project acceptance, etc.
- I. The coordination of the various elements of the design to assure compatibility of architectural, structural, electrical, mechanical/plumbing, and other design features;
- J. Other services as specifically included in the Contract Task Order related to project Initiation, Planning/Design, Bid/Award, Construction and Closeout.

The A-E shall restrict themselves to the *Scope Statement* of the Contract Task Order. Any changes in the *Scope Statement* shall require prior written authorization by County.

III. CONTRACT TASK ORDER

A-E shall be assigned work via a task order by County which shall subsequently be referred to as the "Contract Task Order" (hereinafter "CTO"). A CTO for each project shall be developed by A-E in conjunction with County Project Management staff. The County Project Manager shall manage all A-E's work including monitoring the CTO work schedule, quality of deliverables, review of invoiced amounts, adherence to set budget, and internal review of submittal packages. A-E shall follow all requirements as outlined in the CTO; this general Scope of Work, the project specific *Scope Statement*, and the Architect-Engineer Guide (Rev July 2018).

The CTO shall include a detailed *Scope Statement*, describing tasks to be performed with a specific list of deliverables for each task, schedule of work and cost to complete the work. The schedule of work shall allow enough time for meetings with County Management staff to review the work progress, provide technical and policy direction, resolve problems and ensure adherence to the work completion schedule. The CTO shall include a cover sheet provided by County Project Management staff with the appropriate signature blocks and contract information. Once both Parties agree, and all Parties have signed the CTO, County Management staff shall provide A-E with a Notice to Proceed (NTP) to begin work. A-E shall submit all plans, reports and other documents produced under the CTO to the assigned County Project Manager within the timeframe indicated in the CTO or as directed by County Project Management staff.

IV. SCOPE OF SERVICES – QUALIFIED VENDOR LIST FOR ON-CALL AERIAL SURVEYING SERVICES

A. Minimum Requirements:

A-E shall have a certified Photogrammetrist and a California Licensed Land Surveyor which will be responsible for all phases of mapping and other mensuration requirements, which include planning and supervising survey activities for control, specifying photography or other imagery requirements, managing projects for mapping or other mensuration requirements and interpretation.

A-E shall own equipment sufficient to provide services to meet the required accuracy standards and have personnel qualified to perform the required services. A-E selected will have Photogrammetry as the primary focus of the business or have a division within a larger firm that can provide a minimum of 80% of any project requested.

All services performed by A-E shall be based on accuracy standards as defined in "ASPRS Positional Accuracy Standards for Digital Geospatial Data (Edition 1, Version 1.0. - November, 2014)" or the most recent version.

- B. Description of Services (activities shall include, but are not limited to:
- a. Digital Orthophotography
A-E shall perform Orthophotography acquisition to generate and provide deliverables such as, but not limited to;
 - i. Ortho-mosaic imagery
 - ii. Horizontally corrected and relief displacement removed
 - iii. Typical Pixel resolution from 2 inches to 12 inches
 - iv. True Color Red Green Blue (RGB)
 - v. Multispectral (e.g., 4-Band, Near-Infrared (NIR), Color-Infrared (CIR), Near, Thermal)
 - vi. Formats such as GeoTiff, MrSid, JPG, and ECW that are compatible with programs such as Autodesk Civil 3D and ESRI ArcGIS
 - b. Photogrammetric Mapping
A-E shall perform Photogrammetric mapping to generate and provide deliverables such as, but not limited to;
 - i. Topographic mapping
 - ii. Planimetric mapping
 - iii. Collection of features such as;
 - iv. Vegetation, fixed works, street improvements, curbs, trails, utility poles, drainage systems, driveways, road boundaries, etc.
 - v. Breaklines
 - vi. Contours from 0.5' to 10'
 - vii. Spot elevations
 - viii. Digital Terrain Models (DTM)
 - ix. Typical map scales from 1" = 20' to 1" = 200'
 - x. 2D and 3D Formats compatible with programs such as Autodesk Civil 3D and ESRI ArcGIS
 - c. LiDAR Acquisition
A-E shall perform LiDAR acquisition to generate and provide deliverables such as, but not limited to;
 - i. LAS file – X, Y, Z data points from all returns
 - ii. ASPRS LAS classifications
 - iii. Surface Models such as Digital Earth Model (DEM) and Digital Surface Model (DSM)
 - iv. Feature Extraction such as Building and Building Footprints, Vegetation Polygons, Landcover Classification, Stream Vectors, etc.
 - v. 3D Models
 - vi. Formats compatible with programs such as Autodesk Civil 3D and ESRI ArcGIS

- d. Digital Aerial Photography
A-E shall perform Aerial photography acquisition to generate and provide deliverables such as, but not limited to;
 - i. Oblique Imagery
 - ii. Citywide Orthophotography
 - iii. Inspection imagery
 - iv. Printing and Mounting services

 - e. Photogrammetric Scanning and Printing
A-E shall perform scanning and printing to generate and provide deliverables such as, but not limited to;
 - i. Scanning of aerial film, negatives, historic prints, etc.
 - ii. Printing of photo mosaics, photo index layouts, photo mounting, etc.

 - f. Unmanned Aerial Vehicle (UAV) Surveys
A-E shall perform Aerial surveys utilizing UAVs carrying the necessary sensor equipment for data capture such as; RGB, multispectral, and LiDAR, etc. Determination on using UAVs will be based on current achievable accuracies and standards that are continually evolving with this new technology and will be decided upon by the County Surveyor.

 - g. Data Registration
All above services may be georeferenced to the following datums;
 - i. Horizontal
 - 1. NAD83, Zone VI, OCS 1991.35 Epoch Adjustment
 - 2. NAD83, Zone VI, OCS 2007.00 Epoch Adjustment
 - 3. NAD27, Zone VI, OCS 2017.50 Epoch Adjustment
 - 4. Any other published Datum or Epoch as approved by the County Surveyor
 - 5. Latest Horizontal datum and epoch as defined by the California Spatial Reference System (CSRS) or National Spatial Reference System (NSRS) Survey
 - ii. Vertical
 - 1. NGVD29, OCS 1976 Adjustment
 - 2. NGVD29, OCS 1995 Adjustment
 - 3. NAVD88, OCS 2005 Adjustment
 - 4. Latest Vertical datum as defined by the California Spatial Reference System (CSRS) or National Spatial Reference System (NSRS) Survey
 - iii. Units
 - 1. U.S. Survey Feet
 - 2. Meters

 - h. Miscellaneous Aerial Surveying Services, as May Be Required
The County reserves the right to change, add, or delete elements of this Scope of Services at any time in the future.
- C. Equipment
A-E shall own equipment sufficient to provide services to meet the required accuracy standards. Based on previous mapping projects from using on-call Aerial Photogrammetry contractors, below is a list of minimum equipment requirements;

- a. Digital Mapping Camera
 - i. Large format
 - ii. Forward motion compensation
 - iii. Sensor must be equipped with an Inertial Measurement Unit (IMU) and Airborne GPS (ABGPS) which allows for higher accuracy of captured imagery and elevation data.

- b. LiDAR Sensor
 - i. Full waveform airborne laser scanner
 - ii. Sensor must be equipped with an Inertial Measurement Unit (IMU) and Airborne GPS (ABGPS) which allows for higher accuracy of captured imagery and elevation data.

**ATTACHMENT B:
COST/COMPENSATION**

- I. COMPENSATION:** This is a **time and materials** usage Contract between County and A-E for On-Call Aerial Surveying Services as set forth in Attachment A, "Scope of Work".

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

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

A. Classification Rates:

TOWILL, INC.	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Geomatics Principal Manager	\$270.00
Geomatics Project Manager	\$217.00
Geomatics Specialist	\$186.00
Senior Geomatics Analyst	\$164.00
Geomatics Analyst	\$133.00
Geomatics Technician	\$117.00
Project Assistant	\$80.00
Other Direct Costs (ODC)	
Airborne LiDAR Sensor : \$4,800.00 per day	
PhaseOne Aerial Camera : \$1,100.00 per day	

*Subcontractor: Aspen Helicopters, Inc.	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Other Direct Costs (ODC)	
Aircraft – Twin Engine Fixed Wing with Fuel: \$875.00/hour	
Aircraft – Rotary Wing with Fuel: \$1650.00/hour	

*Subcontractor: Keystone Aerial Surveys, Inc.	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Other Direct Costs (ODC)	
Aircraft – Twin Engine Fixed Wing with Fuel: \$875.00/hour	
Large Format Digital Imagery Sensor (Frame): \$975.00/hour	

*Subcontractor: Zephyr UAS	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Other Direct Costs (ODC)	
UAS (RTK/PPK Drone Mapping): \$3800.00/model	
UAS Inspection/Photo: \$3500.00/day	
UAS 3D Modeling: \$4700.00/model	

*Subcontractor : Taylor Printing	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Other Direct Costs (ODC)	
Printing costs to be quoted on task order basis.	

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

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

- III. PRICE INCREASES/DECREASES:** No price increases will be permitted during the term of this Contract. All price decreases will automatically be extended to County.
- IV. FIRM DISCOUNT AND PRICING STRUCTURE:** A-E guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. A-E agrees that no price increases shall be passed along to County during the term of this Contract not otherwise specified and provided for within this Contract.
- V. A-E’S EXPENSE:** A-E will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.
- VI. REIMBURSABLE ITEMS:** Reimbursable items are non-salary items that are not included in the Scope of Work but necessary for completion of the work and must be authorized in advance by the County Project Manager. A-E may be entitled to reimbursement for the following, upon prior approval by County:
- 1) The actual costs of special equipment to be rented, leased or purchased by A-E for use exclusively in the performance of the Scope of Services, to the extent such rental, lease, purchase and costs have been approved in writing by the County Project Manager.
 - 2) Printing expenses paid to outside contractors; to the extent such contractors and reproduction rates have been approved by the County Project Manager.
 - 3) Other actual costs and/or payments specifically approved and authorized in writing by the County Project Manager and actually incurred by A-E in performance of this Contract.
 - 4) Travel costs shall only be reimbursed if approved in advance in writing by County Project Manager and are subject to the following restrictions:
 - a. Reimbursement of mileage for the business use of a personal vehicle during the conduct of business within the Scope of Services of this Contract shall be based on the Internal Revenue Service Standard Mileage Rate in effect at the time. Mileage between the A-E’s “Home Based” office location and County location, as well as mileage within County property will not be reimbursed.
 - 5) Cost of “Home Based” Xerox copies, faxes, and other supplies and materials associated with them will not be reimbursed.
 - 6) Cost of cellular phones, cell phone usage plans and usage minutes, and other mobile communication devices will not be reimbursed.
 - 7) All reimbursable expenses must be itemized on A-E invoice(s) and documented with receipts. Receipts for reimbursable expenses must be submitted with all A-E invoices. Invoices for reimbursable expenses without back-up receipts will not be paid. A-E is responsible for submitting reimbursable invoices in a format that is acceptable to the County. Reimbursable items shall be charged at cost. Any third-party or subcontractor services shall also be charged at cost; no mark-ups will be allowed.

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

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

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

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

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

Invoices and support documentation are to be forwarded to:

TBA – Per Task Order

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

ATTACHMENT C: STAFFING PLAN

1. A-E KEY PERSONNEL

Name	Classification/ Designation	Years of Experience	Years with Current Firm	Licenses/Certifications (include license number)
Brian Young	Geomatics Principal Manager	39	32	N/A
Lorraine Amenda	Geomatics Project Manager	33	33	Professional Land Surveyor #7217/CA, Certified Photogrammetrist #1517/ASPRS
George Maalouli	Geomatics Project Specialist	34	9	Certified Photogrammetrist #R1480/ASPRS
Rickey Ketcham	Senior Geomatics Analyst	28	26	N/A
Eva Lin	Senior Geomatics Analyst	40	38	N/A
Miguel Guerrero	Senior Geomatics Analyst	21	8	Certified GIS Professional #58112/CA
Sara Reed	Geomatics Project Specialist	15	13	Land Surveyor-in- Training #7259/CA, Certified Photogrammetrist/ #1634/ASPRS

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

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

MA-080-24010688
County of Orange, Public Works
Towill, Inc.

2. SUBCONSULTANT(S) (IF APPLICABLE)

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

Corporate Name	Corporate Address	Local Office Address*	Contact Name	Telephone Number	Project Function	DVBE Certification Number	SBA Certification Number
Aspen Helicopters, Inc.	2899 West Fifth Street Oxnard, CA 93030	2899 West Fifth Street Oxnard, CA 93030	Evie Lynn	805.985.5416	Aircraft Charter	Z6EFDFFV6C83	
Keystone Aerial Surveys, Inc.	9800 Ashton Road, Philadelphia, PA 19114	10300 Airpark Way, Hangar #5 Pacoima, CA 91331	John Schmitt	215.677.3119	Aerial Photography Acquisition		
Zephyr UAS	725 Town & Country Rd., Suite 550 Orange, CA 92868	725 Town & Country Rd., Suite 550 Orange, CA 92868	Marc A. Cañas	714.835.6355	UAS Services		LACMTA SBE # 7309
Taylor Printing	435 So. Rockefeller, Ontario, CA 91761	435 So. Rockefeller, Ontario, CA 91761	Jill Adri	909.390.2750	Printing		

(*If more than one local address please use a separate sheet)