

CONTRACT

THIS CONTRACT, hereinafter referred to as “Contract” for purposes of identification hereby numbered MA-080-22011754, and dated _____ day of _____, 20_____ is

BY AND BETWEEN

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

AND

ENGEO Incorporated, a California Corporation, hereinafter referred to as “A-E”,

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

RECITALS

WHEREAS, County requires professional services to accomplish projects and/or services (“Projects/Services”) as described in MA-080-22011754 Scope of Work for Consultant Services for Dana Point Harbor Rockfall Mitigation Project, hereinafter referred to as “Attachment A,”; and

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

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

1. GENERAL**1.1. Retainer**

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

1.1.2. A-E has offered, and County has accepted, the professional services of Susan E. Tanges, CEG 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

- 1.4.1.** The term of this Contract is for six (6) years, commencing upon Board of Supervisor approval, effective August 25, 2022 through August 24, 2028, **WITH A MAXIMUM ALLOWABLE COMPENSATION OF SEVEN HUNDRED THOUSAND DOLLARS (\$700,000)**, except as permitted in Paragraph 1.5 below.

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 Project/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. Increases in the Contract amount for services within the existing scope of work may be granted by the Director where the amount does not exceed 25 percent of the existing Contract price or \$200,000, whichever is less.
 - b) A-E's billing for the Extra Work shall include but not be limited to names of A-E's staff employed in the Extra Work, classification of employees and number of hours worked.
- 1.5.4.** For partial completion of work of Projects/Services followed by default on part of A-E:
- a) For failure to complete and secure approval of the first required submittal, there shall be no compensation.
 - b) For failure to complete and secure approval of other authorized phases, A-E shall, upon completion of Projects/Services by others, be entitled to receive compensation based on approved work of Projects/Services not to exceed the amounts specified in Attachment A for that particular submittal, plus the reasonable value as determined by County of the non-approved work; provided, however, that if the cost to County to complete the contract exceeds the amount specified herein, A-E shall be liable to County for such excess costs

attributable to A-E's breach of the Contract.

2. LABOR

2.1 Non-Employment of County Personnel

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

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

2.2 Non-Discrimination

2.2.1 In the performance of this Contract, A-E agrees that it will comply with the requirements of the California Labor Code and not engage nor permit any 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

2.3.1 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

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

3.1.2 A-E shall ensure that all 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 maintain 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.

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 County's Risk Manager, or designee, upon review of A-E's current audited financial report. If A-E's SIR is approved, A-E, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

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

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

A. Qualified Insurer

- 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.

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including converge for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claims made or per occurrence \$2,000,000 aggregate
Environmental/Pollution Liability* <i>*(Optional coverage to be required only when hazardous materials are involved. If required, A-E will be notified by County).</i>	\$1,000,000 per claims made or occurrence

B. Required Coverage Forms

- 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.
- 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

- The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:
 - 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 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 A-E's insurance is primary, and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
2. *(Optional coverage to be required only when hazardous materials are involved. If required A-E will be notified by County).* 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 their respective elected and appointed officials, officers, employees and agents*** as Additional Insureds.
 - b. A primary non-contributing endorsement evidencing that A-E's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
3. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***County of Orange 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, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.
5. A-E shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.
6. If A-E's Professional Liability and/or Pollution Liability policy is/are a claims-made policy, A-E shall agree to maintain professional liability coverage for two (2) years following completion of Contract.
7. The Commercial General Liability policy shall contain a severability of interest's clause (standard in the ISO CG 001 policy).
8. Insurance certificates should be forwarded to the agency/department address listed on the solicitation.
9. If the A-E fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.
10. County expressly retains the right to require A-E to increase or decrease insurance of any of the above insurance types throughout the term of this County. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.
11. County shall notify A-E in writing of changes in the insurance requirements. If A-E does not deposit copies of acceptable Certificates of Insurance and endorsements with

County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to A-E, and County shall be entitled to all legal remedies.

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

4. INDEMNITY/COMPLIANCE

4.1 A-E shall indemnify, defend with counsel approved in writing by County and hold harmless, the County 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.

4.2 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.

4.3 Indemnification

4.3.1 A-E agrees to, indemnify, defend with counsel approved in writing by County, and hold County 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 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.

4.4 Bills and Liens

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

4.5 Compliance with Laws

4.5.1 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.

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

5. TERMINATION

5.1 Termination of Contract for Cause

- 5.1.1** If A-E breaches any of the covenants or conditions of this County, County shall have the right to terminate this County 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 County, 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 County, County may at any time, and without cause, terminate this County 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 County.
- 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

- 5.3.1** 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** Upon termination of the Contract with A-E, the County may begin negotiations with a third-party A-E to provide goods and/or Projects/Services as specified in 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** 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

- 6.2.1** 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

6.3.1 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 County unless authorized by County in writing.

6.4 Successors and Assigns

6.4.1 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.

6.5 Entirety

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

6.6 Severability

6.6.1 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.

6.7 Binding Obligation

6.7.1 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.

6.8 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 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: ENGEO Incorporated
320 Goddard Way, Suite 100
Irvine, CA 92618
Attn: Susan E. Tanges
Phone: 619-922-9539
E-mail: stanges@engeo.com

For County: County Department/OC Public Works, Engineering
601 N. Ross St.,
Santa Ana, CA 92701
Attn: Amit Verma
Phone: 714-647-3908
E-mail: Amit.Verma@ocpw.ocgov.com

cc: OC Public Works Procurement Services
601 N. Ross St.,
Santa Ana, CA 92701
Attn: Daisy Corona
Phone: 714-667-9643
E-mail: Daisy.Corona@ocpw.ocgov.com

6.15 Attorney's Fees

6.15.1 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.

6.16 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

6.17.1 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.

6.18 Acceptance

6.18.1 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

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

6.20 Assignment

6.20.1 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 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

6.21.1 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

- 6.22.1** 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

- 6.23.1** 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

- 6.25.1** 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

- 6.26.1** 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

- 6.27.1** 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.

6.28 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 4.3 "Indemnification", A-E shall indemnify and hold harmless County for any and all claims for damages resulting from Contractor's violation of this Section.

6.29 Usage

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

6.30 Wage Rates

6.30.1 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.

6.31 Apprenticeship Requirements

6.31.1 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.

6.32 Registration of Contractor

6.32.1 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.

6.33 Payroll Records

6.33.1 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.

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

6.33.3 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.

- 6.33.4** 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:
- 6.33.5** The information contained in the payroll record is true and correct.
- 6.33.6** The employer has complied with the requirements of Labor Code Sections 1771, 1811, and 1815 for any work performed by his or her employees in connection with the Contract.
- 6.33.7** 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.
- 6.33.8** 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.
- 6.33.9** 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.
- 6.33.10** 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.

6.34 Work Hour Penalty

- 6.34.1** 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.

6.35 Apprentices

- 6.35.1** 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.
- 6.35.2** 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.
- 6.35.3** Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the Contractor and any subcontractor under him may be required to make contributions to the apprenticeship program.
- 6.35.4** 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.

6.36 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.

7. FEMA Required Contract Provisions

When reference is made to "Contractor" below, such reference shall be read as referring to A-E.

7.1 Clean Air Act

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as U. S. Department of Homeland Security Headquarters 500 C St SW Washington, D.C. 20042 Page 16 of 25 www.fema.gov/procurement-disaster-assistance-team To Table of Contents amended, 42 U.S.C. § 7401 et seq.

The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by

7.2 FEMA Federal Water Pollution Act

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

7.3 Debarment and Suspension

This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Contractor must comply with C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7.4 Byrd Anti-Lobbying Amendment

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification. If applicable, Contractor must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any U. S. Department of Homeland Security Headquarters 500 C St SW Washington, D.C. 20042 Page 20 of 25 www.fema.gov/procurement-disaster-assistance-team To Table of Contents Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, **ENGEO Incorporated**, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

7.5 Procurement of Recovered Materials

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- a. Competitively within a timeframe providing for compliance with the contract performance schedule.
- b. Meeting contract performance requirements; or
- c. At a reasonable price.

Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

7.6 Access to Records

The Contractor agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

7.7 DHS Seal, Logo, And Flags

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.”

7.8 Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

7.9 No Obligation by Federal Government

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other Party pertaining to any matter resulting from the Contract.

7.10 Program Fraud and False or Fraudulent Statements Or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

SIGNATURE PAGE FOLLOWS

County of Orange, OC Public Works
ENGEO Incorporated

MA-080-22011754

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

ENGEO INCORPORATED,
a California Corporation,

Date: 7/8/2022By: Lora Dominick
SignatureLora Dominick Assistant Treasurer
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: 7/8/2022By: Uri Eliahu
SignatureUri Eliahu President
Print Name & Title

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

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

Date: _____

By: _____

Print
Name: _____

Title: _____

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

By: William Ninh
DeputySignature: William NinhDate: 7/11/2022

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

Orange County Public Works (OCPW), on behalf of OC Parks, is seeking to mitigate for potential rockfalls located on the bluffs adjacent to Dana Point Harbor Drive, (approximately 3,000 linear feet), refer to attached Exhibit 1.

II. PROJECT BACKGROUND

The County constructed Dana Point Marina in the 1960s. The Dana Point Marina holds 2,500 boat slips, 50 guest docks, boat launch ramp, dry boat storage hoist, fishing pier, shipyard, marine fuel dock, three yacht clubs, a commercial sports fishing operation, boat and watercraft rentals, and an Orange County Sheriff's Harbor Patrol office.

III. EXISTING CONDITIONS

Dana Point bluffs rise above Dana Point Harbor have experienced continuous detachment of rock due to their geologic structure. Photographic evidence of the harbor area from the early 20th century documents the ongoing erosion of the bluffs. Historical data indicates that boulders have fallen from the bluffs. Due to these rockfalls, temporary road closures, massive cleanup, bluff stabilization/regrading, and/or barrier construction have occurred in the 1980s, February 1993, October and December 2010, October 2012, January 2014, October 2015, and January 2018.

A historic building that was converted into a public restroom has been damaged by these recent rockfalls. This structure sits at sea level immediately below the bluff site, refer to Exhibit 2.

The average daily (weekday) road count indicates 12,742 vehicles travel on Dana Point Harbor Drive. Since this area is fully developed and under heavy public use, rockfalls risk damage to facilities, interruption of traffic, limited public access, and potential, unforeseeable, hazards to pedestrians, cyclists, and motorists. Rockfalls also disrupt the 17 businesses, 13 restaurants, and various educational/recreational activities in the area as well as generating irregular cleanup and repair costs to local jurisdictions.

The Dana Point bluffs are composed of friable Capistrano Formation sandstones and regularly experience rockfalls and landslides. The bluffs were identified as a seismic hazard zone for earthquake-induced landslides in the Preliminary Geological/Geotechnical Assessment Report for the Dana Point Harbor Revitalization Project, Final EIR No. 591, dated January 2006. The specific area of concern addressed in this proposal is adjacent to a listed site in the landslide inventory of the Seismic Hazard Zone Report for the Dana Point 7.5 Minute Quadrangle, 2001 (California Department of Conservation, Division of Mines and Geology).

The bluffs have experienced erosion and deteriorating rock face conditions. At the west end of the Dana Point bluffs by reducing the impact of falling rock and providing safeguards for people and property. A preliminary study by Geosyntec Consultants, Dana Point Harbor Bluffs: Sampson Overlook and Rock Fall Hazard Assessment, 2018 identified five hazard zones on the Dana Point Bluffs; the area of concern addressed by this proposal is the "Zone 1" section with the highest priority for receiving mitigation (Exhibit 3). Factors identified as contributing to landslides include bluff face instability, water seepage from rain and blufftop residential irrigation, block falls, and adverse geological bedding surfaces in the cliff.

IV. GOALS & OBJECTIVES

The proposed project will implement rockfall mitigation as a result of the rockfalls and landslides. The designer will evaluate the site to ensure the most appropriate mitigation method(s) are selected to properly address the current conditions. Mitigation activities may include multiple levels of physical protection from falling debris.

V. PREMISE

A. The Project must include, but is not limited to, the following:

1. Performing appropriate field inspections and evaluations to confirm the most appropriate rock slope remediation measures.
2. Develop a preliminary design along with 2 alternatives, lifecycle cost and cost-to-benefit analysis for possible measures for the County's review. The consultant will confirm standard and industry-recognized manufacturers and replacement components in the design documents. Items to be considered shall include, but not be limited to, product reliability and performance, manufacturer's years of service, equipment costs, warranties, guarantees, delivery schedule, etc.
3. Perform an environmental analysis for the *Preferred Alternative* for the County's approval.
4. Present the conceptual designs to both internal and external stakeholders to identify their concerns throughout preliminary design development (including but not limited to City of Dana Point, adjacent businesses, and regulatory agencies).
5. Create a comment response matrix to identify stakeholder concerns.
6. Finalize design drawings and specifications for the recommended mitigation approach.
7. Provide outreach support and present the final design to the public.
8. Provide design support during the construction phase.
9. Prepare as-built plans based on the Contractor and OCPW redlines.

B. Additional Requirements:

1. Examine the proposed project's environmental effects and provide support for Regulatory permits.
2. Identify best management practices (BMPs).
3. Develop an Operations & Maintenance Plan of the mitigation systems. This plan shall include adaptive management procedures with expected outcomes and events of potential circumstances that might affect public safety and how emergency situations (such as failure of the mitigation systems) should be managed will be documented.
4. Compliance with City, County, State and Federal guidelines.

VI. CONTRACT TASK ORDER

A. The A-E shall be assigned work via a task order by OCPW which shall subsequently be referred to as the "Contract Task Order" (hereinafter "CTO"). A CTO for each task shall be developed by the A-E in conjunction with OCPW Project Management staff. The OCPW 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. The A-E shall follow all requirements as outlined in the CTO and this general Scope of Work.

B. 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 CTO proposal shall allow enough time for meetings with County Management staff to review the work progress, provide technical and policy direction, resolve issues and ensure adherence to the schedule. Once both

Parties agree with the CTO proposal, the OCPW Project Manager shall provide the A-E with a Notice to Proceed (“NTP”) to begin work. The A-E shall submit all plans, reports, and other documents produced under the CTO to the assigned OCPW Project Manager within the timeframe and cost indicated in the CTO or as revised by the A-E and prior written approval by OCPW Project Management. The A-E shall perform no work unless issued a CTO and NTP by OCPW Project Manager.

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

VII. SCOPE OF SERVICES

- A. These services may be utilized by OCPW, on an as-needed basis, for the following job categories to complete the Project. The proposed Project schedule is further defined as follows and is to be considered for development of CTOs:

1. Preliminary Design:

- a. Stakeholders Preliminary Design Workshop – August 2022
- b. Orange County Public Works Alternatives Workshop & Selection of the Preliminary Design Alternative – September 2022
- c. Design Seminar & Selection of the Design Alternative – October 2022
- d. Completion of 35% PS&E – October 2022

2. Final Design:

- a. Obtain Stakeholder Approval(s) – December 2022
- b. Completion of 65% PS&E – January 2023
- c. Completion of 95% PS&E – March 2023
- d. Finalization of Design – April 2023
- e. Construction Contract Award – July 2023
- f. Issue Construction Notice-to-Proceed – August 2023

3. Construction Support:

- a. Construction Support
- b. Prepare As-Built/Record Drawings

VIII. BASIC SERVICES AND RESPONSIBILITIES

A. Manner of Performance

1. The role and responsibility of the A-E will be to serve as the Project’s Engineer-of-Record and provide services for the investigation, design, documentation, construction support, and alteration of the Project. This scope of work provides policy information, requirements, direction, and guidance for the preparation of CTO deliverables and sets forth expectations for the delivery of services, preparations of the Project construction documents, specifications, design services, cost estimates, and related work to be performed OCPW.

2. The requirements of the Project are designed to support proper operations and maintenance of the facility, as well as meet regulatory permit requirements once construction is complete. It is the policy of OCPW to construct facilities that are functionally adequate, efficient, and which represent an economic balance between initial cost and cost of maintenance and operation. The completed Project shall be determined by its function and requirements. For these reasons, CTO proposals submitted to OCPW Project Management must fully address and incorporate the policies and instructions contained herein. In the event that the A-E determines that a County guideline is not applicable to a particular CTO, the A-E must submit a written request to deviate from the guidelines. OCPW Project Management and appropriate department personnel will review and provide a written response to the request. The A-E shall not submit designs which would necessitate variances from codes and ordinances regulating construction in Orange County.
3. Documents prepared for the Project must provide clear, concise, and precise information for Project stakeholders and contractors. The A-E is expected to make certain that the material is understandable to the intended audience. The A-E will be required to perform, at their own expense, such redesign or revision of reports, plans, specifications, cost estimates, or other deliverables furnished under the contract if OCPW determines that such revision is necessary to correct errors or deficiencies for which the A-E is responsible.
4. The A-E shall serve as lead of a design team that may include other professionals working together to ensure that the final design is carried through to the finished product, with no alterations in materials or design that would lead to operations and maintenance or safety issues or compromise the quality of the facility. The County of Orange is required to select A-E firms based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. For these reasons, consistency in the A-E's design team is expected from preliminary design through to construction completion. The A-E shall appoint a qualified person as Project Engineer and/or Project Manager to coordinate the project from start to finish. It is expected that a principal of the firm will be kept fully advised of the project progress by the Project Engineer or Project Manager. Substitution or addition of A-E's key personnel, as defined in Attachment C – Staffing Plan of the Contract, shall be allowed only with prior written approval of the OCPW Project Manager.

B. Duties and Responsibilities – General

The following services shall be included for each CTO, as applicable, and summarized in the Scope Statement:

1. Project Management & Coordination
 - a. The A-E shall arrange, attend, and conduct weekly project meetings with the OCPW Project Manager and other Project stakeholders (as needed) to discuss project status, technical issues, schedules, and/or other details of the Project applicable to the CTO Scope Statement. The A-E shall provide a monthly master design schedule update that is inclusive of all CTOs. The A-E shall prepare and distribute the meeting agenda and minutes for each of the project meetings. The agenda shall be submitted to the attendees of the meeting at least two (2) working day prior to each meeting, while the minutes of each meeting shall be provided within five (5) working days following each meeting. Also, at the request of OCPW, the A-E shall attend other meetings (off- or on-site) and/or presentations as needed to complete the terms of CTO. The task assumes that at a minimum, the A-E Project Manager will be made available to attend these occurrences with the appropriate staff.

- b. In addition to weekly project meetings, on-going informal communications, coordination, and administration, the following meetings, at a minimum, are expected during Preliminary & Final Design and are further expanded upon in Paragraph E Duties and Responsibilities – By Job Category:
- i. Preliminary Design Meetings:
 - A. Kick-off Meeting – The primary purpose of this meeting is to discuss Project expectations and any additional data the A-E needs to begin the first CTO.
 - B. Stakeholders Preliminary Design Workshops – The primary purpose of these workshops is to present to stakeholders to Preliminary Design Alternative and obtain feedback from the City of Dana Point, adjacent property owners and regulatory agencies to adapt the preliminary design to best accommodate feedback provided by external stakeholders.
 - C. OCPW Alternatives Workshop(s) – The primary purpose of this meeting(s) is to review the design alternatives with OCPW and OC Parks key staff, such as Engineering, Operations & Maintenance, Regulatory Permits, Environmental Resources, Planning, etc., to support selecting the Preliminary Design Alternative.
 - D. Design Seminar – The primary purpose of this meeting is to present the Recommended Design Alternative to OCPW and OC Parks executive management and key staff for approval in order to proceed in completing the 35% Design Milestone documents.
 - ii. Final Design Meetings:
 - A. Final Design Presentation – The primary purpose of this meeting is to present the Final Design to OCPW and OC Parks executive management and key staff prior to final plan approval.
 - B. Stakeholders Pre-Construction Meeting – The primary purpose of this this meeting is to present to stakeholders the Final Design and construction expectations to obtain feedback from community members, property owners, and regulatory entities. This meeting will be jointly conducted by the Engineer of Record and Contractor.

List VIII.B.1 Project Management & Coordination – Anticipated Deliverables:

- Monthly Master Design Schedule Updates
 - Meeting Agendas and Minutes
 - Design Schedule Updates
 - Public Outreach
 - OCPW Alternatives Workshop Presentation(s)
 - Design Seminar Presentation
 - Final Design Presentation
 - Final Public Outreach
 - Additional Public Outreach Meeting(s)
-

C. Data Collection & Literature Review

1. The A-E shall review all still-valid work and/or information prepared for the Project, including studies, geotechnical reports, structural reports, as-built plans, design memorandums, CAD design files, environmental reports, etc. that is applicable to the CTO Scope Statement. CTO Scope Statements should build upon and utilize, but not duplicate, still-valid work and/or information previously prepared for the Project. Below is a list of the reports and/or studies that are available and will be provided to the A-E:
 - a. Dana Point Harbor Bluffs: Sampson Overlook and Rock Fall Hazard Assessment
 - b. DAPO, Cove Rd Restroom 1988 - As-Built
 - c. Dana Point Revitalization Final EIR No 591
2. Relevancy of previously completed works shall be summarized in the Design Documentation Report further described below.

D. Design Documentation Report

1. The Engineer of Record shall prepare a Design Documentation Report, inclusive of all CTOs, for the Project. Each CTO Scope Statement shall include incorporation of the CTO deliverables into the Design Documentation Report. The report shall discuss and/or identify, but is not limited to, the following:
 - a. History and/or background relevant to the Project;
 - b. Existing conditions of the facility and/or features within the project limits;
 - c. Design alternatives;
 - d. Appropriate design standards, regulations, and codes utilized;
 - e. Agreements, permits, and approvals required;
 - f. Community and/or public outreach requirements;
 - g. Environmental constraints;
 - h. Survey data utilized;
 - i. Technical discussions and assessments, including but not limited to:
 - Geotechnical/Hydrogeological Analysis
 - Structural Analysis
 - j. Construction impacts, methods, and phasing considerations,
 - k. Right-of-way and/or easements constraints;
 - l. Utility investigations and constraints;
 - m. Lifecycle cost and cost-benefit analysis;
 - n. Additional studies/site investigations required (only for interim DDR updates);
 - o. **All current design assumptions, criteria, and recommendations based on the limitations and constraints of the Project.**
2. The Preliminary Design Documentation Report shall support the Selected Design Alternative presented in the 35% Plans, Specifications, and Estimate. The A-E shall provide a draft report to the County for review and comment with each PS&E milestone deliverable, further defined in Paragraph VIII.A.7.

List VIII.D Design Documentation Report Anticipated Deliverables:

- Preliminary Design Documentation Report
- 65% Design Documentation Report
- 95% Design Documentation Report
- Final Design Documentation Report

E. Duties and Responsibilities – By Job Category

The A-E shall be responsible for identifying all duties and responsibilities to complete the Project goals and objectives including, but not limited to, the below Job Categories as applicable to the requested CTO from OCPW Project Management and shall be summarized in the Scope Statement prepared by the A-E:

1. Alternatives Analysis

- a. The A-E shall develop and evaluate alternatives for improving slope stability to accommodate the Project goals and objectives. These alternatives will be presented to the public and documented in the Design Documentation Report.
- b. The Preliminary Design Alternative will be established following completion of technical studies and investigations necessary for the Preliminary Design Documentation Report. The Final Design Alternative will be established following completion of the Design Seminar. Modifications to accommodate feedback that do not compromise the Project's goals and objectives will be considered and any additional technical studies or investigations needed should be summarized in the Preliminary Design Documentation Report and included in subsequent CTO Scope Statements.

2. Geotechnical Analysis

- a. The A-E shall have a Geotech consultant perform appropriate field inspections and evaluation to confirm the most appropriate remediation measures. The A-E will develop a preliminary design and cost analysis for possible measures for the County's review and provide a recommended approach for approval. The consultant(s) will finalize design drawings and specifications for the recommended mitigation approach in order to provide safe, cost effective, reliable hazard protection.
- b. Mitigation measures will meet the requirement to provide protection of rockfall debris to people and structures. The consultant will confirm standard and industry-recognized manufacturers and replacement components in the design documents. Items to be considered shall include, but not be limited to, product reliability and performance, manufacturer's years of service, equipment costs, warranties, guarantees, delivery schedule, etc.

3. Utilities

- a. The implementation of the Project may require the need to coordinate existing utilities including, but not limited to, local drainage systems, gas, sewer, electric, communication, irrigation and water lines. The A-E shall identify all potential utility conflicts and avoid unnecessary utility impacts during the design development phase of the Project. In addition, the A-E shall make any necessary modifications to the design, plans and specifications if additional utility conflicts are discovered at any point in the design where the utility owner has prior rights. In situations where the County has prior rights, the A-E shall support OCPW's Utilities Section and Project Management in the resolution of the conflict and make any necessary changes to the design to accommodate the solution. The A-E shall not design improvements that substantially increase the cost of the project to accommodate a utility that does not have prior rights.
- b. The A-E shall review record drawings and utility maps provided by the utility owners and check for any missing or outdated information.
- c. The A-E is responsible for conducting utility research, identifying, and addressing all utility conflicts. During design development, OCPW will be the primary point-of-contact with the utility companies and will coordinate the utility requests for information and notifications. If OCPW is

unable to provide utility coordination and/or locating services, the A-E shall make staffing available to coordinate and locate existing utilities, if needed. The A-E shall develop and maintain an updated and comprehensive utilities disposition matrix and composite map that tracks/displays utility location and information.

- d. If additional information, such as record drawings, GPR, or potholing is necessary, the A-E shall request this information from OCPW with an exhibit showing the utility, area of investigation, and project design element in conflict. Alternatively, the A-E may be requested to perform the locating services as part of a CTO. The A-E shall summarize all findings and additional investigation needs in the Preliminary Design Documentation Report and provide resolutions for all utility conflicts with the 65% PS&E milestone as defined below.

List 3 Utilities Anticipated Deliverables:

- Utilities Base Map
 - Utilities Disposition Matrix
-

4. Regulatory Permitting:

- a. The Project shall comply with the requirements of all federal, state, and local laws. Depending on the *Preferred Design Alternative*, the following table provides a summary of potential project stakeholders that will be coordinated with by the A-E. A-E will be the primary point-of-contact with the regulatory entities. The OCPW shall support A-E's negotiations with stakeholders of Project conditions, constraints, and minimization impacts to the public.

AGENCY	PROJECT NEXUS
City of Dana Point	Local Coastal Program General Plan Conformation Plans and Specifications Approval
CA Coastal Commission	Coastal Development Permit
Dana Point Harbor	Right-of-Way Needs

- b. The A-E shall include stakeholder considerations in the Alternatives Analysis and all coordination shall be summarized in the Preliminary Design Documentation Report. In addition to supporting memorandums, coordination meetings, and exhibits, the A-E shall prepare the following:
- i. Water Quality Management Plan (WQMP) – Contingent upon the amount impervious surface created and completed WQMP Applicability Checklist, the A-E shall develop a WQMP for the project. Should a WQMP for the Project be required, it shall be in accordance with Orange County NPDES MS4 Permit from the San Diego Regional Water Quality Control Board. The WQMP shall adhere to and satisfy all the requirements stated within the MS4 Permit including the incorporation of Low Impact Development (LID) Best Management Practices (BMPs) in the Preliminary Design Alternative.

List i Water Quality Management Plan Anticipated Deliverables:

- WQMP Applicability Checklist
 - Preliminary WQMP
 - 65% WQMP
 - 95% WQMP
 - Final WQMP
-

- ii. Erosion and Sediment Control Plan (ESCP) – In accordance with Orange County NPDES MS4 Permit from the San Diego Regional Water Quality Control Board, all construction projects are required to develop and implement an ESCP. Contingent upon the amount of soil disturbed (1 acre or greater), coverage under the Statewide Construction General Permit (CGP) and a Stormwater Pollution Prevention Plan (SWPPP) may be required. The A-E shall develop an ESCP, or SWPPP if required, for the project. The ESCP, or SWPPP, shall adhere to and satisfy all the requirements stated within the MS4 Permit including the incorporation of Best Management Practices (BMPs) to prevent discharge of pollutants to the MS4.

List V.C.6.b.i Erosion and Sediment Control Plan Anticipated Deliverables:

- Erosion and Sediment Control Plan
- Stormwater Pollution Prevention Plan in lieu of ESCP (if required)

5. Environmental Documentation

- a. The A-E shall determine the appropriate CEQA determination for the project. They shall obtain and review all environmental documents related to this development. The A-E shall coordinate with OCPW to identify if any additional environmental review and/or special studies associated with the Preliminary Design Alternative will be required and shall summarize these needs in the Design Documentation Report.
- b. Following the Design Seminar and in accordance with CEQA Guidelines Section 15162 and the County of Orange 2020 Local CEQA Procedures Manual, the A-E shall perform any required additional environmental reviews and documentation for the Selected Design Alternative, including any special environmental studies including but not limited to, air quality and cultural assessments.

6. Constructability & Operability Review

- a. The A-E shall conduct a constructability and operability review meetings with OC Parks, OC Construction Management and OC Operations & Maintenance to discuss potential construction means and methods for implementing each alternative and post-construction operability to be included in the lifecycle analysis. Preliminary construction means and methods, staging plans, detour plans, and construction schedule shall be summarized Design Documentation Report.
- b. The A-E shall develop an Operations & Maintenance (O&M) Manual for the Project. The O&M Manual shall include, but is not limited to, a background/summary Project information, roles and responsibilities related to O&M of the flood control facility, qualifications for maintenance personnel, flood operation procedures, routine O&M activities and procedures, corrective maintenance activities and procedures, and documentation requirements.

List VIII.A.6 Constructability & Operability Review – Anticipated Deliverables:

- DRAFT Operations & Maintenance Manual
- FINAL Operations & Maintenance Manual

7. Preparation of the Plans, Specifications, and Estimate (PS&E)

- a. In compliance with the appropriate design criteria, standards, regulations and codes, the A-E shall be responsible for the design and development, including sub-consultant design services, of a

PS&E package for the *Selected Design Alternative*, which includes, but is not limited to, the following:

- b. PS&E package for the slope stabilization
 - i. Preparation of the Design Documentation Report
 - ii. Implementation of traffic control (indicating detours, temporary signage and striping, locations of removable temporary barriers and crash cushions, and lane closures if required, etc.) within the project limits based on the various stages of construction that will occur due to the limited amount of access to the project area;
 - iii. Develop WQMP or ESCP for the project
 - iv. Prepare an O&M manual for the improvements
- c. All designs, renderings, exhibits, plans, specifications, calculations, etc. developed by the A-E shall at a minimum comply with and/or be in accordance to the latest versions and/or editions at the time of the award of this contract for the following:
 - i. Orange County Public Works Standard Specifications
 - ii. Orange County Public Works Standard Plans
 - iii. Requirements within the encroachment and regulatory permits for the Project
 - iv. CEQA requirements
 - v. Orange County Technical Manuals
 - vi. Standard Plans for Public Works Construction
 - vii. Standard Specifications for Public Works Construction (Greenbook)
 - viii. Caltrans Standard Plans and Specifications
 - ix. Federal Highway Administration Standard Plans and Specifications
- d. The A-E shall not progress between phases of the PS&E preparation until after written direction is provided by OCPW. All plans shall be computer drafted on standard 22" x 34" size sheets using AutoCAD with OC Public Works borders and title blocks. The PS&E shall be prepared in accordance with the County of Orange CAD Standards Manual. In addition, the A-E shall prepare specifications (Special Provisions for Construction) per the County's specifications format for all relevant design aspects within this scope of work. Final specifications shall be provided in pdf and Microsoft word format. The A-E's schedule shall account for 15 working days for each peer review for each Project submittal. Upon receipt of the comments and recommended revisions to the PS&E from OCPW, the A-E shall evaluate and upon concurrence by OCPW, proceed with revising the plans, specifications, quantity calculations, and engineer's estimate. The review comments and responses shall be documented in a Peer Review Response Matrix. The Peer Review Response Matrix from a previous submittal review will be provided with the subsequent submittal package.
- e. The A-E shall routinely conduct constructability and biddability reviews of the Scoping Documents as necessary to satisfy the needs of the Project Team. The review will attempt to identify all discrepancies and inconsistencies in the Scoping Documents especially those related to clarity, consistency, and coordination of work for subcontractors and suppliers.
- f. For each PS&E package, a letter to the County's Resident Engineer (RE), including any issues requiring the RE's attention and items included in the Construction Package. The package and transmittal memo shall describe the Project, procedures, and the documents attached that will be used by field personnel during construction.

- g. The components listed in Table VIII.A.7 shall be included within the PS&E Submittal at a minimum unless otherwise approved by OCPW.

List VIII.A.7 Preparation of PS&E – Anticipated Deliverables:

- Preliminary Plans, Specification, & Engineer's Estimate
 - 65% Plans, Specifications, & Engineer's Estimate
 - 95% Plans, Specifications, & Engineer's Estimate
 - Final Plans, Specifications, & Engineer's Estimate
-

Table VIII.A.7 – PS&E Requirement

Phase	Preliminary Design Milestone	65% Design Milestone	95% Design Milestone
Plans	<p>Required:</p> <ul style="list-style-type: none"> ▪ Horizontal and vertical alignment ▪ Known utilities and utility conflicts ▪ All existing topographic features ▪ The following plan sheets are included: <ul style="list-style-type: none"> ○ Plan & Profile ○ Typical Sections ○ Construction Notes for Major Construction Items ○ Draft Water Quality Features/BMPs ○ Site Exploration Map and Soil Borings <p>Optional:</p> <ul style="list-style-type: none"> ▪ Station Cross Sections ▪ Construction Details 	<p>Required:</p> <ul style="list-style-type: none"> ▪ All utilities within the Project area are shown ▪ All utility conflicts are identified and resolved ▪ Final Water Quality Features/BMPs ▪ Draft Pay lines ▪ Site Exploration Map and Soil Borings ▪ Construction Notes for All Construction Items <p>Optional:</p> <ul style="list-style-type: none"> ▪ Station Cross Sections ▪ Construction Details ▪ Preliminary Traffic Detour/Control Plans 	<p>Required:</p> <ul style="list-style-type: none"> ▪ Station Cross Sections <ul style="list-style-type: none"> ▪ Construction Details ▪ Preliminary Traffic Detour/Control Plans
Specifications	<p>Required:</p> <ul style="list-style-type: none"> ▪ Draft Bid Schedule (w/ Draft quantities) ▪ Signature Page and Table of Contents only <p>Optional:</p> <ul style="list-style-type: none"> ▪ Order of Work ▪ Bid Item Specifications for major construction items 	<p>Required:</p> <ul style="list-style-type: none"> ▪ Order of Work ▪ Bid Item Specifications <p>Optional:</p> <ul style="list-style-type: none"> ▪ Bid Item Payment Clauses 	<p>Required:</p> <ul style="list-style-type: none"> ▪ Bid Item Payment Clauses
Estimates	The developed 35% Engineer's Estimate shall be classified as Class 3 in accordance with the Association for the Advancement of Cost Engineering International's (AACEI) cost estimate classification system.	The developed 65% Engineer's Estimate shall be classified as Class 3 in accordance with the Association for the Advancement of Cost Engineering International's (AACEI) cost estimate classification system.	The developed 95% Engineer's Estimate shall be classified as Class 3 in accordance with the Association for the Advancement of Cost Engineering International's (AACEI) cost estimate classification system.

h. Construction Support

The Engineer of Record shall provide Construction Support Services, including, but not limited to, the following: Contractor Submittal Reviews, response to Requests for Information, preparation of plan revisions/clarifications, Site Visits, Construction Progress Meetings, and completion of Project Record Drawings.

i. Reference Documents

The following documents can be downloaded utilizing the hyperlinks below:

Exhibit 1: Location Map

Exhibit 2: DAPO, Cove Rd Restroom1988 - As-Built

Exhibit 3: Geosyntec Presentation

**ATTACHMENT B
COST/COMPENSATION**

- I. COMPENSATION:** This is a specific rates of compensation usage Contract between county and A-E for **Consultant Services for Dana Point Harbor Rockfall Mitigation Project** as set forth in Attachment A, “Scope of Work”.

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

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

1. Classification Rates:

ENGEO Incorporated	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Principal Engineer/Geologist	\$350
Associate Engineer/Geologist	\$290
Senior Engineer/Geologist	\$250
Project Engineer/Geologist	\$225
Staff Engineer/Geologist	\$198
Technical Support	\$140

*Subcontractor – (ECORP Consulting, Inc.)	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Principal Planner/Biologist/Archaeologist	\$220
Senior Planner/Biologist/Archaeologist	\$175
Staff Planner/Biologist/Archaeologist	\$130
Associate Planner/Biologist/ Archaeologist	\$110
Support Staff	\$120

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:

OC Public Works, Infrastructure Programs
Attn: Accounts Payable
601 N. Ross St.
Santa Ana, CA 92701

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

(Complete and submit as #2.A.1., in Part 3 of Section II “Response Requirements”)

1. A-E KEY PERSONNEL

Name	Classification/Designation	Years of Experience	Years with Current Firm	Licenses/Certifications (include license number)
Walter Crampton	Geotechnical Engineer	45	35	Geotechnical Engineer, CA 245, Civil Engineer, CA 23792, Diplomate-Coastal Engineering, Academy of Coastal, Ocean, Port & Navigation Engineers
Susan Tanges	Certified Engineering Geologist	41	4	Certified Engineering Geologist, CA 1386, Professional Geologist, CA 4365
Josef Tootle	Principal in Charge	27	23	Geotechnical Engineer, CA 2677, Professional Engineer, CA 58282

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.

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
ECORP Consulting, Inc.	2525 Warren Dr Rocklin, CA 95677	2861 Pullman St., Santa Ana, CA 92705	Jesus "Freddie" Olmos	(714) 648-0630	Environmental Consultant	N/A	N/A