



PROFESSIONAL SERVICES AGREEMENT

Between

THE COUNTY OF SANTA BARBARA

And

DIVERSIFIED PROJECT SERVICES INTERNATIONAL, INC.

Engineering Consulting Services

For

**CALLE REAL WATER MAIN IMPROVEMENTS & NEW WATER LOOP, PHASE 2
DESIGN & CONSTRUCTION ADMINISTRATION**

PROJECT NUMBER: 19012-2



County of Santa Barbara: General Services
Capital Division

TABLE OF CONTENTS

<u>PART</u>	<u>TITLE</u>	<u>PAGE</u>
1	RECITALS.....	1
2	PROJECT AUTHORIZATION, TERM, MAXIMUM COMPENSATION.....	1
3	OWNER'S RESPONSIBILITIES.....	1
4	PROJECT SCOPE OF WORK (SOW).....	2
5	CONSULTANT'S RESPONSIBILITIES, SERVICES, AND DELIVERABLES.....	2
6	CONSULTANT'S SCHEDULE.....	4
7	INDEMINIFICATION & INSURANCE.....	4
8	REPRESENTATION BY COUNSEL.....	4
9	HAZARDOUS MATERIALS.....	5
10	COMPENSATION & PAYMENT.....	5
11	TERM & TERMINATION.....	7
12	DISPUTE RESOLUTION.....	8
13	MISCELLANEOUS PROVISIONS.....	11
14	NOTICES.....	14
15	LIMITS OF AGREEMENT.....	14
16	ORDER OF PRECEDENCE.....	14
17	FEDERAL FUNDING PROVISIONS.....	14
18	EXHIBITS & ATTACHMENTS.....	15

END TABLE OF CONTENTS



LIST OF EXHIBITS

<u>EXHIBIT</u>	<u>TITLE</u>	<u>PAGE</u>
A	CONSULTANT'S SCOPE OF WORK & HOURLY RATES	A1
B	CONSULTANT'S STAFF & SUBCONSULTANTS.....	B1
C	CONSULTANT'S COMPENSATION	C1
D	INDEMNIFICATION AND INSURANCE REQUIREMENTS	D1
E	NOTICES	E1
F	FEDERAL TERMS & CONDITIONS.....	F1

LIST OF ATTACHMENTS

<u>ITEM</u>	<u>TITLE</u>	<u>PAGE</u>
1	ATTACHMENT 1: DPSI CONSULTANT SERVICES PROPOSAL.....	G1

END LIST OF EXHIBITS AND ATTACHEMENTS



County of Santa Barbara: General Services
Capital Division

PROFESSIONAL SERVICES AGREEMENT
FOR
PROFESSIONAL CIVIL ENGINEERING SERVICES

This is an agreement between THE COUNTY OF SANTA BARBARA ("Owner" or "County") and DIVERSIFIED PROJECT SERVICES INTERNATIONAL, INC., a California corporation ("Consultant" or "Contractor").

PART 1 - RECITALS

- 1.01 WHEREAS**, this Professional Services Agreement ("PSA" or "Agreement") sets forth the terms and conditions pursuant to which Consultant, as a professional, will provide professional services to Owner in connection with Owner's Calle Real Water Main Improvements & New Water Loop Design, Phase 2 ("Project"); and
- 1.02 WHEREAS**, Consultant was selected by means of the County's qualifications-based selection ("QBS") process, and represents itself as a professional having the requisite qualifications, licenses and agrees to perform the Services defined below.

NOW, THEREFORE, Owner and Consultant agree as follows:

PART 2 - PROJECT AUTHORIZATION, TERM AND MAXIMUM COMPENSATION

2.01 Agreement For Services

- A. This PSA sets forth the terms and conditions pursuant to which Consultant, as a professional, will provide services to the County as set forth herein ("Services").

2.02 Maximum Compensation

- A. The sum of all payments made to Consultant pursuant to this PSA shall not exceed a maximum aggregate amount of Thirty-Two Thousand Two Hundred Thirty Dollars (\$32,230.00) ("Maximum Compensation Limit" or "MCL"). If Consultant performs services or incurs expenses beyond this Maximum Compensation Limit, Consultant does so at Consultant's sole risk and expense.

2.03 Term

- A. This PSA is effective as of first the date it is duly executed by both of the parties hereto, and shall remain in effect for a period of 24 months thereafter, unless earlier terminated in accordance with the provisions of this Agreement ("Term").

2.04 Scope

- A. The Services and Deliverables identified in "Consultant's Scope of Work & Hourly Rates," attached hereto as Exhibit A and incorporated herein by reference ("SOW"), establish:
1. The full range of Services and Deliverables the County may authorize for projects within the scope of this PSA.
 2. The extent of the Services and Deliverables that may be authorized by the Owner's Project Manager ("OPM") within the scope of this PSA.

PART 3 - OWNER'S RESPONSIBILITIES

3.01 Owner Provided Information



County of Santa Barbara: General Services
Capital Division

- A. If required and where available, Owner may provide any of the following for Consultant's use in connection with the Services:
- (i) Specialized studies of existing site conditions, including the presence of hazardous materials, soil, air, water, pollution, etc.
- B. Consultant must make a written recommendation to the Owner regarding the completeness or sufficiency of any survey or specialized study provided to Consultant, or the need for any study or survey that the Consultant believes is required for the Project that is not included within Consultant's Services.

3.02 Approval & Permit Fees

- A. Owner will pay all fees required by any jurisdiction having authority over the Project for filing and checking of any item of Service prepared by Consultant, and such fees necessary to secure approvals and permits for the Project from any Governmental Agency.

PART 4 - PROJECT SCOPE OF WORK (SOW)

4.01 Changes in Scope

- A. Owner requests a change in the requirements of the SOW that Consultant contends is material and justifies an increase in compensation, Consultant must, within fourteen (14) calendar days of the Owner's request, advise Owner in writing of such contention before proceeding with such change. If written notice is not given to Owner within such 14-day period, such change shall be deemed immaterial, and Consultant shall not be entitled to additional compensation for such change.
- B. If Owner causes a change in the Service(s) or Deliverable(s) that Consultant believes to be material, Consultant must, within fourteen (14) calendar Days of the event that caused such change, notify Owner in writing that Consultant contends Owner has caused a material change in the Service(s) or Deliverable(s). After said notification, Consultant must provide such Service or Deliverables as directed by OPM. If OPM concurs that there has been a material change in Service(s) or Deliverable(s) required by Owner hereunder, payment to Consultant may be adjusted in accordance with Part 10.01.A.3, "Changes," below; provided, however, that in no event shall payments to Consultant hereunder exceed the MCL.
- C. If there is a material increase in the Service(s) or Deliverable(s) required to complete the Services, and such increase is not in any way attributable to acts or omissions of or on behalf of Consultant, including, but not limited to, faulty or inaccurate calculations or estimations made by or on behalf of Consultant, OPM may request, and Consultant, pursuant to such request, shall provide, assistance in re-allocating the remaining available funds available hereunder. Such assistance must, if requested by OPM, also include a determination of any other Services necessary to complete the Project.
- D. If there is a material decrease in the Services or Deliverables required to complete the Services, Consultant shall immediately notify OPM of such decrease, and agrees to accept a reasonable corresponding reduction in compensation hereunder.

PART 5 - CONSULTANT'S RESPONSIBILITIES, SERVICES, AND DELIVERABLES

5.01 Consultant as Independent Contractor

- A. Consultant is performing all Services as an independent contractor, and not as an agent or employee of County.

5.02 No Assignment; Consultant's Use of Subconsultants



County of Santa Barbara: General Services
Capital Division

- A. The expertise and experience of Consultant are material considerations for County's execution of this Agreement. Consultant shall not assign, delegate, or transfer, directly or indirectly, whether by operation of law or otherwise, this PSA or any of Consultant's rights or obligations hereunder, without the prior written consent of County in each instance, and any attempt to so assign, delegate, or transfer this Agreement, or any rights, duties or obligations arising hereunder, shall be void and of no effect. Notwithstanding the foregoing, Consultant may use the subconsultants set forth in Exhibit B, attached hereto and incorporated herein by reference ("Subconsultants"), in performing the Services under this Agreement. Consultant shall be responsible for directing the work of authorized Subconsultants, and for all compensation and benefits due to Subconsultants, if any. County assumes no responsibility whatsoever concerning such compensation or benefits. Consultant shall not add any subconsultant(s) to those identified in Exhibit B without the prior written approval of the OPM in each instance.

5.03 Consultant's General Responsibilities

The following General Responsibilities shall apply to all Services under this Agreement.

- A. Standard of Care
1. Consultant shall perform all Services in accordance with those standards of care that are generally recognized as being used by competent persons in Consultant's profession and area of specialty in the State of California.
 2. At all times during the Term, Consultant shall perform all Services in compliance with all applicable federal, state, and local codes, statutes, laws, regulations and ordinances ("Applicable Laws").
 3. Consultant shall use its professional judgment and expertise to verify interpretations of Applicable Laws from the appropriate Government Agency(ies) and authorities having jurisdiction over the Project. Such efforts shall be undertaken in accordance with the acceptable standard of care for this type of Project.
- B. Funding by Governmental Agencies
1. If applicable to this PSA, when a Project is to be constructed, wholly or in part, with funds from Federal, State, or other outside funding sources, Consultant shall comply with all requirements of such Federal, State, or outside funding sources, including, but not limited to, requirements set forth in the Construction Documents.
- C. HCAI (formally known as OSHPD) Jurisdiction
1. If applicable to this PSA, when a Project is within the jurisdiction of the State of California, Department of Health Access and Information ("HCAI" formally known as OSHPD), Consultant's Instruments of Service must meet all HCAI requirements.
- D. Sequence of Consultant's Services
1. Consultant's Services shall proceed sequentially as described in the SOW unless otherwise agreed or directed by the Owner in writing duly executed by OPM.
 2. The Milestone Schedule for completion of the Consultant's Services is set forth in the SOW.
- E. Submittal of Deliverables
1. Each submittal of a Deliverable by Consultant to Owner hereunder shall include a declaration statement, signed by a duly authorized officer of Consultant, that Consultant coordinated the work of Consultant and its Subconsultants, that such Deliverable is accurate and complete, and that all of Owner's prior review comments have been incorporated therein.
 2. Consultant shall furnish to Owner, in form and format suitable for reproduction, original reproducible files and other Instruments of Service, and computer flash drives containing



County of Santa Barbara: General Services
Capital Division

each submittal in the following electronic formats: Microsoft PC compatible operating system, AutoCAD 2004 or newer, Microsoft Office 2003 or newer.

F. Printing & Reproduction

1. Consultant shall pay for all printing and reproduction cost incurred in the performance of the Services.
2. Owner will print coordination check documents to be used by the Owner beyond the number of copies identified in the SOW at Owner's expense.
3. If applicable to this PSA, Owner will print Bid Documents for distribution to Bidders at Owner's expense.

G. Meetings

1. Required meetings are as specifically identified in the SOW.
2. Unless otherwise requested by the OPM, Consultant shall prepare agendas for and take minutes of all meetings conducted/attended by Consultant. This includes meetings that are chaired by the OPM.
3. The Consultant's fee for attendance at and preparation of minutes for all meetings specifically identified in the SOW will be considered included in the overall fee identified for this PSA.

H. Consultant's Staff and Subconsultants

1. Consultant's staff and Subconsultants are identified in Exhibit B, and are subject to the requirements set forth therein.
2. Changes to Consultant's staff and Subconsultants are subject to Owner's prior written approval as an amendment to the PSA duly executed by the OPM.

5.04 Basic Services & Deliverables: See Exhibit A

PART 6 - CONSULTANT'S SCHEDULE

6.01 Schedule

- A. Consultant shall schedule and promptly perform all Services and Deliverables in coordination with the County.
- B. Consultant shall perform all Services and Deliverables within the time and project schedule set forth in this Agreement. Time is of the essence in this Agreement.
- C. Consultant shall provide and maintain Project staffing levels as necessary to perform the Services within the time provided in the project schedule set forth in this Agreement.

PART 7 - INDEMNIFICATION & INSURANCE

7.01 Exhibit D Indemnification and Insurance Requirements

- A. Consultant shall comply with all indemnification and insurance requirements set forth in Exhibit D, attached hereto and incorporated herein by reference.

PART 8 - REPRESENTATION BY COUNSEL

- A. Both parties to this PSA were represented by counsel in the negotiation and execution of this PSA.



County of Santa Barbara: General Services
Capital Division

- B. The parties hereto are aware of the provisions set forth in California Civil Code §1717 and intend this paragraph of the PSA to meet said statutory requirements so that the reference to attorneys' fees in Part 7, "Indemnification & Insurance" applies only in the indemnification context in Part 7, "Indemnification & Insurance."

PART 9 - HAZARDOUS MATERIALS

9.01 Responsibility for Hazardous Materials

- A. Owner acknowledges that Consultant has no special knowledge or expertise regarding asbestos or other hazardous materials.
- B. Unless otherwise provided in this PSA, or unless Owner has provided documented information to Consultant regarding the presence or potential presence of such hazardous materials Consultant and its Subconsultants have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or any other toxic substance.

PART 10 - COMPENSATION & PAYMENT

10.01 Compensation

- A. Payments will be made as set forth herein
1. Maximum Compensation Limit
 - a. The Maximum Compensation Limit ("MCL") includes the maximum aggregate amount of compensation payable to Consultant hereunder. Total payment by Owner to Consultant shall not exceed the MCL specified in Exhibit C, attached hereto and incorporated herein by reference. Consultant is fully responsible for the provision of all Services and Deliverables, compensation for which shall not exceed the MCL.
 2. Consultant's Hourly Rate Schedule
 - a. Consultant's Hourly Rate Schedule is set forth in the SOW.
 - b. Non-Fixed fee Services provided by Subconsultants are subject to the OAR's prior written approval, and shall be set forth in an Amendment to this PSA.
 3. Changes
 - a. During the Term of this PSA, the Owner may authorize changes to this PSA, other than by amending this PSA in accordance with Part 15.B., below, only to the extent authorized by the Board of Supervisors in approving this PSA.
 4. Prevailing Wages
 - a. Certain Services to be performed under this contract may be considered "public works" subject to prevailing wage, apprenticeship and other labor requirements of Labor Code division 2, part 7, chapter 1, section 1720 et seq. Such public works may include work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work. Consultant is solely responsible for determining whether the Services, or any portion thereof, is subject to said requirements, and for complying with all such requirements that apply. All such public works projects are subject to compliance monitoring by the California Department of Industrial Relations (DIR). County has obtained from the DIR general prevailing wage determinations for the locality in



County of Santa Barbara: General Services
Capital Division

which the Work is to be performed that are on file with County's Public Works Agency and are available upon request. Consultant is responsible for posting job site notices as prescribed by regulation pursuant to Labor Code section 1771.4(a)(2). Consultant acknowledges that it is aware of state and federal prevailing wage and related requirements and shall comply with these requirements to the extent applicable to the Services, including, without limitation, Labor Code sections 1771 (payment of prevailing wage), 1771.1 (registration with DIR) and 1771.4 (submission of certified payrolls to Labor Commissioner) Consultant has included (and shall include) consideration for this obligation in calculating compensation and cost estimates under this PSA.

5. Errors and Omissions

- a. Consultant must correct all errors and omissions attributable to acts and/or omissions of and/or on behalf of Consultant and/or Subconsultants without cost to Owner.
- b. Owner has the right to pursue claims for any errors and omissions of or on behalf of Consultant and/or Subconsultant(s).

10.02 Reimbursable Expenses

- A. When travel is authorized as a reimbursable expense, Consultant agrees to comply with the Santa Barbara County and Federal travel policies and guidelines, where applicable, for all travel, lodging and meal reimbursements arising from the performance of this Agreement. Detailed travel policy requirements and limitations can be found in the Capital Projects Division.
- B. All reimbursable expenses, including travel, mileage, copying, printing, etc. should be included in the MCL and not billed separately.

10.03 Supplementary Services & Deliverables

- A. To the extent that County has established a Supplemental Services Allowance ("SSA") for the performance of services not included within the Services and Deliverables, such SSA is set forth in Exhibit C. Consultant shall only commence work other than as set forth in the SOW pursuant to a Supplemental Services Order duly executed by the County's OPM, and only to the extent expressly authorized by the County Board of Supervisors in approving this PSA.

10.04 Payment

- A. Payment Requests
 1. Owner will endeavor to make payments within thirty (30) Days after the OPM's approval of the Consultant's correct Payment Request.
- B. Invoices
 1. Consultant may submit a Payment Request not more than once each month.
- C. Progress Payments
 1. Owner may, in its discretion, adjust any progress payment so that it corresponds with the percentage of completion as reasonably determined by Owner.

10.05 Release of All Claims

- A. Prior to final payment hereunder, Consultant must execute and deliver to Owner a release of all claims arising from this Agreement, other than such claims, if any, as may be specifically excepted from the release for the reasons and in the amounts stated in the release.

10.06 Timely Billings

- A. Consultant agrees to bill Owner on a timely basis and not later than ninety (90) Days after:
 1. Services are performed; or



County of Santa Barbara: General Services
Capital Division

2. Billings are otherwise due pursuant to the terms of the PSA.
- B. Owner has no liability for payment of, and has sole discretion to pay or decline payment of, any billings submitted after the expiration of such ninety (90) Day period.

10.07 Consultant's Accounting Records

- A. Accounting System & Records Retention
 1. Consultant must maintain an accounting system in accordance with current standards of accounting and financial reporting for the purpose of supporting payments for Services authorized under this PSA. Consultant must retain such records for three (3) years after expiration or termination of this PSA, or until all claims, if any, have been disposed of, whichever period is longer.
- B. Owner's Auditing Rights
 1. Upon service of a written Notice to Consultant, Owner, and persons authorized by Owner, have the right at any reasonable time and place to examine, audit, and make copies of books, records, documents, accounting procedures and practices relating to the performance or administration of this PSA, or affecting any changes or modifications to this PSA.
- C. Applicability to Subcontracts
 1. Consultant must incorporate the above-stated accounting and audit requirements into all subcontracts, including, but not limited to, contracts with Subconsultants, exceeding Ten Thousand Dollars (\$10,000) in value in connection with this PSA, including any modification(s) thereof.

PART 11 - TERM & TERMINATION

11.01 Owner's Rights

- A. Termination for Convenience
 1. OPM may, by written notice to Consultant, terminate all or part of this PSA at any time for Owner's convenience. Upon receipt of such notice, Consultant must immediately cease all work hereunder as specified in the notice.
 2. If this PSA is so terminated, Consultant will be compensated as set forth below.
- B. Termination for Breach
 1. If Consultant violates any of the covenants or agreements of this PSA, or if Consultant fails to fulfill in a timely and proper manner its obligations pursuant to this PSA, and does not cure such failure or violation within thirty (30) days, or such shorter period as the Owner may determine is necessary and appropriate, after receipt of written notice from the County's OPM specifying such failure or violation, whether subject to cure, and, if subject to cure, the time and manner of cure, Owner may terminate this PSA.
 2. Owner will provide Consultant with written notice as to the effective date of termination, and Consultant is not entitled to compensation for Services or expenses beyond the specified termination date.
 3. If, after notice of termination for breach of this PSA, it is determined that Consultant did not breach this PSA, the termination will be deemed to have been made for Owner's convenience, and Consultant will receive payment due to Consultant for Services performed prior to such termination for convenience in accordance with Section 11.02, below.
- C. Suspension for Convenience



County of Santa Barbara: General Services
Capital Division

1. OPM may, without cause, order Consultant in writing to suspend, delay, or interrupt the Services under this PSA in whole or in part for up to 90 days. COUNTY shall incur no liability for suspension under this provision, and such suspension shall not constitute a breach in this Agreement.
- D. The rights and remedies provided herein to Owner are in addition to any other rights and remedies provided by law in this PSA.

11.02 Consultant's Compensation Upon Termination

- A. In the event of Owner's termination of this PSA, Consultant will receive compensation as follows:
 1. For fully performed and accepted items of Service, and authorized Reimbursable Expenses pursuant to this PSA, compensation will be in the amount specified in the PSA for that item of Service or expense.
 2. For items of Service on which Owner has issued an Authorization to Proceed but which have not been fully completed and accepted, Consultant will be compensated for its Services accepted by Owner in an amount which bears the same ratio to the total fee otherwise payable for the performance of that Service as the Services performed bear to the total Services necessary for the full performance of that Service.
- B. In no event will the total compensation paid for any item of Service exceed the value specified in this PSA for such item of Service.

11.03 Delivery of Documents

- A. Upon any termination of this PSA, Consultant shall furnish Owner all documents and Instruments of Service prepared pursuant to this PSA, whether complete or incomplete. Consultant may retain a copy for its records if so provided by Owner in such notice of termination.

PART 12 - DISPUTE RESOLUTION

12.01 Consultant's Questions & Concerns

- A. Questions regarding the terms, conditions and Services of this PSA will be decided by the County's Director of General Services, who will furnish the decisions to Consultant in writing within thirty (30) Days after receiving a written request from Consultant.

12.02 Dispute Resolution During Construction

- A. Alternate Dispute Resolution (ADR)
 1. Owner intends, but shall not be required, to use ADR techniques including Partnering and Mediation during Design.
- B. Consultant and its Subconsultants shall participate in all ADR efforts as directed by Owner.
- C. In the event that Owner elects to utilize such ADR, the cost of such Partnering training facilities and facilitator will be borne equally by the parties hereto.

12.03 Negotiations Before and During Mediation

- A. Negotiations to resolve disputes before and during Mediation are initiated for settlement purposes only and are not binding unless otherwise agreed by Owner and Consultant.

12.04 Mediation

- A. Voluntary Mediation



County of Santa Barbara: General Services
Capital Division

1. In the event a dispute or issue is not resolved by negotiation, Owner and Consultant may mutually agree to attempt to resolve the matter by Mediation.
 2. Said Mediation is voluntary, non-binding, and intended to provide an opportunity for the parties hereto to evaluate each other's cases and arrive at a mutually agreeable solution.
 3. These provisions relating to voluntary Mediation shall not be construed or interpreted as mandatory arbitration.
- B. Initiation of Mediation
1. Any party hereto may initiate Mediation by notifying the other party hereto in writing.
- C. Request for Mediation
1. A Request for Mediation must contain a brief statement of the nature of the dispute or claim, and the names, addresses, and phone numbers of all parties to the dispute or claim, and those who will represent them, if any, in the Mediation.
 2. Within ten (10) days of a Party's receipt of a Request for Mediation, the Party in receipt of such Request for Mediation shall provide to the requesting Party a written response indicating whether the receiving Party is willing to participate in voluntary, non-binding mediation with respect to such dispute or claim.
- D. Selection of Mediator
1. Within fourteen (14) days of a Party's written response to a Request for Mediation indicating that such Party is willing to participate in meditation with respect to the dispute or claim at issue, the Parties hereto will confer to select an appropriate mediator agreeable to all Parties.
 2. If the Parties hereto cannot agree on a mediator, they may accept a mediator appointed by a recognized association such as the American Arbitration Association.
- E. Qualifications of a Mediator:
1. Any mediator selected hereunder ("Mediator") must have expertise in the area of the dispute and be knowledgeable in the Mediation process.
 2. No person shall serve as a Mediator in any dispute in which that person has any financial or personal interest in the result of the Mediation.
 3. Before accepting an appointment, the prospective Mediator must disclose any circumstances likely to create a presumption of bias or prevent a prompt meeting with the parties. Upon receipt of such information, the Parties will confer and decide whether to select another Mediator.
- F. Vacancies
1. If any Mediator becomes unwilling or unable to serve, another Mediator will be selected unless the Parties agree otherwise.
- G. Representation
1. Any Party may be represented in the Mediation by person(s) of their choice who must have full authority to negotiate.
 2. The names and addresses of such representative(s) must be communicated in writing to all Parties and to the Mediator.
- H. Time and Place of Mediation
1. The Mediator will set the time of each Mediation session.
 2. The Mediation will be held at a convenient location agreeable to the Mediator and the Parties, as determined by the Mediator.



County of Santa Barbara: General Services
Capital Division

3. All reasonable efforts will be made by the parties hereto and the Mediator to schedule the first session within sixty (60) Days after selection of the Mediator.

I. Identification of Matters in Dispute

1. Unless a longer period of time is required by the Mediator, at least ten (10) days before the first scheduled Mediation session, each Party must provide the Mediator a brief memorandum setting forth such Party's position with regard to the issues identified in the Request for Mediation, and any other pertinent issues that such Party believes need to be resolved. At the discretion of the Mediator, or otherwise agreed by the Parties, the Parties hereto may mutually exchange such memoranda.
2. At the first Mediation session, the Parties will be expected to produce all information reasonably required for the Mediator to understand the issue(s) presented. The Mediator may require each Party to supplement such information.

J. Authority of Mediator

1. The Mediator does not have authority to impose a settlement on the Parties, but will attempt to assist the parties hereto in reaching a satisfactory resolution of their dispute.
2. The Mediator is authorized to conduct joint and separate meetings with the Parties, and to make oral and written recommendations for settlement.
3. Whenever necessary, the Mediator may also obtain expert advice concerning technical aspects of the dispute, provided that the Parties agree in writing in advance to such outside expert advice, to assume the expenses of obtaining such expert advice, and whether the arrangements for obtaining such expert advice will be made by the Mediator or one or more of the Parties.
4. The Mediator is authorized to end the Mediation whenever, in the Mediator's judgment, further Mediation efforts would not contribute to a resolution of the dispute between the Parties.

K. Privacy

1. Mediation sessions are private.
2. The Parties and their representatives may attend Mediation sessions.
3. Other persons may attend Mediation sessions only with the prior written consent of each of the Parties , and with the consent of the Mediator.

L. Confidentiality

1. The Mediator will not divulge confidential information disclosed to a Mediator by the Parties or by witnesses in the course of the Mediation.
2. All records, reports, or other documents received by a Mediator while serving as Mediator, are confidential.
3. The Mediator must not be compelled to divulge such records or to testify in regard to the Mediation in any adversary proceeding or judicial forum.
4. The Parties shall maintain the confidentiality of the Mediation and shall not rely on, or introduce as evidence in any arbitration, judicial or other proceedings:
 - a. Views expressed or suggestions made by the other Party with respect to a possible settlement of the dispute;
 - b. Statements made by the other Party in the course of the Mediation proceedings;
 - c. Proposals made or views expressed by the Mediator;



County of Santa Barbara: General Services
Capital Division

- d. Whether the other Party had or had not indicated willingness to accept a proposal for settlement made by the Mediator.
- M. No Stenographic Record
 - 1. There shall be no stenographic record of the Mediation.
- N. Termination of Mediation
 - 1. The Mediation shall be terminated:
 - a. By the execution of a Settlement Agreement by the Parties with respect to the issues subject to the Mediation;
 - b. By a written declaration of the Mediator to the effect that further efforts at Mediation are no longer worthwhile; or
 - c. By a written declaration of one or more of the Parties to the effect that the Mediation proceedings are terminated.
- O. Exclusion of Liability
 - 1. No Mediator shall be a necessary party in judicial proceedings related to the Mediation.
- P. Interpretation and Application of These Mediation Provisions
 - 1. The Mediator will interpret and apply these Mediation provisions insofar as they relate to the Mediator's duties and responsibility.
- Q. Expenses
 - 1. The expenses of witnesses for each Party must be paid by the Party producing such witnesses.
 - 2. All other expenses of the Mediation, including required traveling and other expenses of the Mediator, and the expenses of any witness called by the Mediator, and the cost of any proofs or expert advice produced at the direct request of the Mediator, will be apportioned equally between the Parties, or otherwise, as the Mediator finds appropriate, or as may otherwise be agreed by the Parties, provided, however, that a Party shall not be responsible for any such Mediation expense to which such Party did not consent in advance in writing.

12.05 Compensation for Participation in Mediation

- A. Consultant is not entitled to compensation for time spent in or for negotiations or Mediation to resolve questions or disputes between Consultant and Owner arising out of this PSA.

PART 13 - MISCELLANEOUS PROVISIONS

13.01 Capitalization and Formatting

- A. Terms capitalized in this PSA include those that are:
 - 1. Specifically defined; or
 - 2. Titles of Parts or paragraphs; or
 - 3. Titles of reports or Deliverables; or
 - 4. Titles of other documents.
- B. Unless otherwise indicated, **highlighted**, **emboldened**, *italicized*, or underlined text is not indented to imply special significance but serves merely as an aid to the reader to distinguish or quickly reference selected text.
- C. Text shown with Strike Through font is meant to, and does, exclude such text from the PSA. It is shown as such merely for the convenience of the Owner.



County of Santa Barbara: General Services
Capital Division

- D. The captions of the Parts and paragraphs are for convenience only and will not be deemed relevant in resolving any question of interpretation or construction of any such Part or paragraph.

13.02 Force Majeure

- A. Neither party hereto shall be liable to the other Party hereto for damages or delay in performance caused by events beyond the control of such Party or such Party's employees, agents, affiliates, officers, directors, Subconsultants, or representatives, provided that (i) such events are not in any way attributable to any act or omission of such Party or any of such Party's employees, agents, affiliates, officers, directors, Subconsultants, or representatives, and (ii) the Party claiming such delay promptly provides written notice to the other Party specifying the cause and a good faith estimate of the duration of such delay ("Force Majeure Notice"), and (iii) such Party cures such delay and resumes performance hereunder as soon as practicable under the circumstances. Except for those commitments identified in the Force Majeure Notice, the affected Party shall not be relieved of its responsibility to fully perform as to all other obligations of such Party under this Agreement. Notwithstanding the foregoing, if such Force Majeure event continues for a period of more than 90 days from the date of such Force Majeure Notice, the County shall be entitled, in its sole discretion, to terminate this Agreement.

13.03 Waiver

- A. In the event any provision of this PSA is held to be invalid and unenforceable by a court of competent jurisdiction, the remaining provisions shall be valid and binding on the Parties.
- B. One or more waivers by either Party of any provision, term, condition or covenant shall not constitute a waiver of any subsequent breach.

13.04 Timely Approvals

- A. Whenever the approval of Owner or Consultant is required pursuant to this PSA, such approval shall not be unreasonably withheld or delayed.

13.05 Ownership & Use of Instruments of Service

- A. Owner shall be the owner of the following items in connection with this Agreement upon creation, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. Consultant shall not release any of such items to any other person except after prior written approval of Owner.
- B. Unless otherwise specified herein, Consultant hereby assigns to Owner all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by Consultant pursuant to this PSA (collectively referred to as "Copyrightable Work and Inventions"). Owner shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. Consultant agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. Consultant warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. Consultant at its own expense shall defend, indemnify, and hold harmless Owner against any claim that any Copyrightable Works and Inventions or other items provided by Consultant hereunder infringe upon intellectual or other proprietary rights of a third party, and Consultant shall pay all



County of Santa Barbara: General Services
Capital Division

damages, costs, settlement amounts, and fees that may be incurred by Owner in connection with any such claims.

- C. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this PSA.
- D. Consultant is not entitled to any fees for Owner's use of Instruments of Service unless Owner enters into an agreement with Consultant for Services in connection therewith.
- E.

13.06 Reliance

- A. Unless otherwise indicated, Consultant may rely on the accuracy and technical quality of documents provided by Owner or the Owner's authorized consultants.

13.07 Taxes

- A. Consultant shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this PSA and shall make any and all payroll deductions required by law. Owner shall not be responsible for paying any taxes on Consultant's behalf, and should Owner be required to do so by state, federal, or local taxing agencies, Consultant agrees to promptly reimburse Owner for the full value of such paid taxes plus interest and penalty, if any. Such taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

13.08 Conflicts of Interest

- A. Consultant covenants that Consultant presently has no employment or interest, and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this PSA. Consultant further covenants that in the performance of this PSA, no person having any such interest shall be employed or otherwise engaged by Consultant or any Subconsultant. Consultant must promptly disclose to Owner, in writing, any potential conflict of interest. Owner retains the right to waive a conflict of interest disclosed by Consultant if Owner determines it to be immaterial, and such waiver is only effective if provided by Owner to Consultant in writing.

13.09 No Publicity or Endorsement

- A. Consultant shall not use Owner's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. Consultant shall not use Owner's name or logo in any manner that would give the appearance that the Owner is endorsing Consultant. Consultant shall not in any way contract on behalf of or in the name of Owner. Consultant shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Owner or its projects, without obtaining the prior written approval of Owner.

13.10 Non-Discrimination

- A. Owner hereby notifies Consultant that Owner's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this PSA and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and Consultant agrees to comply with said ordinance.

13.11 Execution in Counterparts

- A. This PSA may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

13.12 Governing Law



County of Santa Barbara: General Services
Capital Division

- A. This PSA shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

PART 14 - NOTICES

- A. All notices will be deemed to have been given when made in writing and delivered or mailed to the representatives of Owner and Consultant at their respective addresses as shown in Exhibit E ("Notices"), attached hereto and incorporated herein by reference.

PART 15 - LIMITS OF AGREEMENT

- A. This PSA, including all Exhibits and attachments hereto, together with the Request for Qualifications/Proposal (RFQ/P) pursuant to which this Agreement was procured and which is hereby incorporated herein by reference, and Consultant's Proposal submitted to County in response to same, constitutes the entire and integrated agreement between Owner and Consultant with respect to the subject matter hereof, and supersede all prior and contemporaneous negotiations, representations, or agreements, either written or oral, preceding this PSA.
- B. This PSA may be amended only by written agreement signed by Owner and Consultant, except as otherwise expressly authorized herein.
- C. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this PSA shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- D. No remedy herein conferred upon or reserved to Owner is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

PART 16 - ORDER OF PRECEDENCE

- A. In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions contained in the numbered sections of this Agreement shall prevail over those in the Exhibits. CONTRACTOR agrees that in the event of any discrepancy, inconsistency, gap, ambiguity, or conflicting language between CONTRACTOR's Proposal (attached hereto as part of Exhibit A), on the one hand, and any other provision(s) of this Agreement on the other, the provisions of this Agreement (including the COUNTY's Request for Qualifications/Proposals, incorporated herein by reference, and Exhibits B and C) other than CONTRACTOR's Proposal shall take precedence and control and prevail.

PART 17 - FEDERAL FUNDING PROVISIONS

- A. ARPA COMPLIANCE: CONTRACTOR shall comply with the requirements of the Federal 2021 American Rescue Plan Act ("ARPA"), U.S. Treasury Coronavirus State and Local Fiscal Recovery Funds Compliance and Reporting Guidance, and federal regulations, including, but not limited to, Title 2 of the Code of Federal Regulations (CFR) Part 200, entitled, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." In addition, CONTRACTOR shall comply with the Federal Terms and Conditions attached hereto as EXHIBIT F and incorporated herein by reference. CONTRACTOR shall comply with grant agreements, assurances in applications, notices of award, and all other applicable federal,



County of Santa Barbara: General Services
Capital Division

state, and local laws, regulations, ordinances, orders, rules, guidelines, directives, circulars, bulletins, notices, and policies governing the ARPA funds provided in connection with this Agreement. CONTRACTOR shall be responsible for providing services in a manner consistent with all federal and state requirements and standards required as a condition of receiving and expending ARPA funds provided in connection with this Agreement.}

PART 18 - EXHIBIT & ATTACHMENTS

- A. The following listed Exhibits referred to herein are incorporated in this PSA as though set forth in full. In the event of conflict between provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions in the numbered sections shall prevail over the provisions.
1. Exhibit A, "Consultant's Scope of Work & Hourly Rates"
 2. Exhibit B, "Consultant's Staff & Subconsultants"
 3. Exhibit C, "Consultant's Compensation"
 4. Exhibit D, "Indemnification And Insurance Requirements"
 5. Exhibit E, "Notices"
 6. Exhibit F, "Federal Terms and Conditions"
 7. Attachments



County of Santa Barbara: General Services
Capital Division

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the date executed by the COUNTY

County of Santa Barbara

By: _____
**STEVE LAVAGNINO, CHAIR
BOARD OF SUPERVISORS**

ATTEST:
MONA MIYASATO,
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

CONSULTANT:
Diversified Project Services International, Inc.
705 Fiero Lane, Suite 10
San Luis Obispo, CA 93401

By: _____
Deputy

DocuSigned by:
By: Jesse Kaltenberg _____
26389EF04D934F6... ntative

Name: Jesse Kaltenberg, R.C.E.
Title: Consultant Project Manager
Address: 705 Fiero Lane, Ste 10
City/State/Zip: San Luis Obispo, CA 93401

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
BETSY SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

DocuSigned by:
By: Lauren Wideman _____
8F464D822C84458... isel

DocuSigned by:
By: [Signature] _____
6BAAEA15901943F...

APPROVED AS TO FORM:
GREGORY MILLIGAN
RISK MANAGER

RECOMMENDED FOR APPROVAL:
KIRK LAGERQUIST, DIRECTOR
GENERAL SERVICES DEPARTMENT

DocuSigned by:
By: Greg Milligan _____
DC240AC1E64247D...

DocuSigned by:
By: Kirk Lagerquist _____
19AEDA90054E4CE...

END OF AGREEMENT



County of Santa Barbara: General Services
Capital Division

EXHIBIT A

SCOPE OF WORK; HOURLY RATES

The following scope of work and hourly rates, which include all overhead, administrative costs, and profit, shall apply to hourly-rate Services. Any rate increases must be approved in advance in writing by the OPM, and shall thereafter take effect on the following anniversary of the Board of Supervisors' approval of the PSA. Modifications to Consultant's Hourly Rate Schedule to include out-years beyond the rates identified in this Exhibit A, and the addition of personnel not identified in Exhibit B, will be negotiated by the Parties using as a benchmark the prevailing rates/increase for similar Consulting Services in the California Central Coast area, and are subject to prior written approval by the OPM in each instance as an administrative modification to the PSA.

CONSULTANT FIRM NAME: Diversified Project Services International, Inc. (DPSI)

SCOPE OF WORK: See Attachment 1 DPSI response and proposal.

END EXHIBIT A



County of Santa Barbara: General Services
Capital Division

EXHIBIT B

CONSULTANT'S STAFF & SUBCONSULTANTS

- A. Consultant declares that the Principal in-Charge on behalf of Consultant shall be Sam Lux, P.E. Consultant declares that the Project Manager shall be Jesse Kaltenberg, P.E.
- B. Consultant will only employ Subconsultants identified in the Consultant's response to the County's RFQ for this project dated March 26, 2021, and each Subconsultants must, if their profession or specialty is licensable, be licensed by the State of California to perform such Services. Consultant must obtain Owner's prior written approval of any other subconsultants or subcontractors. Upon Owner's request, Consultant shall provide copies of all Subconsultant contract agreements to Owner.
- C. None of the Staff or Subconsultants shall be replaced without OPM's prior written approval pursuant to an amendment to this PSA. If Consultant's Project Manager or any other designated key staff person or Subconsultant fails to perform to the satisfaction of Owner, upon written notice from Owner's Project Manager, Consultant shall, within fifteen (15) calendar days, remove that person from the Project and provide a qualified replacement acceptable to OPM, and subject to OPM's prior written approval.

END EXHIBIT B



County of Santa Barbara: General Services
Capital Division

EXHIBIT C

CONSULTANT'S COMPENSATION

1. COMPENSATION SUMMARY

a.	Consultant's Fixed Fee for the Basic Services described in <u>Exhibit A</u> , "Consultant's Scope of Work and Hourly Rates" shall be:	
	Construction Drawing Modifications	\$6,475.00
	Engineer's Construction Cost Estimate Revisions	\$4,615.00
	Construction Administration and Inspection Services	\$18,400.00
	SUBTOTAL: Fixed Fee for Basic Services	\$29,490.00
b.	Allowance for Reimbursable Expenses pursuant to Part 10.02 1	\$0
	Allowance for Additional Basic Services (PSA Part 5.04) and Supplementary Services (PSA Part 10.03) that may be authorized by the Owner in writing pursuant to issuance of a Supplementary Services (SS) Order , issued during the period of the PSA.	\$0
c.		
2.	MAXIMUM COMPENSATION (a+b+c)	\$29,490.00

3. PROGRESS PAYMENTS

- For **FIXED FEE** portion, Progress Payments will be on the basis of completion of Project Milestones.
- For **HOURLY FEE** portion, Progress Payments will be made monthly and based on the actual hours worked during the billing period charged at the hourly rates set forth in Exhibit A or B to the PSA. (**Consultant must include back up information for payment including a breakdown of the staff hours for particular tasks performed: task-fee breakdown**)
- Only invoices identifying personnel listed in Exhibit A or B to the PSA will be accepted by Owner for payment.
- Consultant must submit appropriate documentation and information to support each invoice, including a narrative description of Services performed during such billing period; completed milestones and deliverables.

END EXHIBIT C



EXHIBIT D
Indemnification and Insurance Requirements
(For Design Professional Contracts that also Include Non-Design Services)

INDEMNIFICATION

A. Indemnification pertaining to Design Professional Services:

CONTRACTOR agrees to fully indemnify and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, suits damages, costs, expenses, judgments and/or liabilities that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR and its employees, subcontractors, or agents in the performance of services under this Agreement. The indemnity includes the cost to defend COUNTY to the extent of the CONTRACTOR'S proportionate percentage of fault. Should one (or more) defendants be unable to pay its share of the defense costs due to bankruptcy or dissolution of the business, CONTRACTOR shall meet and confer with other parties regarding unpaid defense costs and CONTRACTOR shall pay COUNTY'S cost of defense to the fullest extent permitted by law.

B. Indemnification pertaining to other than Design Professional Services:

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR'S indemnification obligation applies to COUNTY'S active as well as passive negligence but does not apply to COUNTY'S sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR'S has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident



County of Santa Barbara: General Services
Capital Division

for bodily injury or disease. **(Not required if CONTRACTOR provides written verification it has no employees)**

4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, the COUNTY requires and shall be entitled to the broader coverage for and/or the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10. CG 20 26, Cg 20 33 or CG 20 38; and CG 20 37 if a later revisions used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR'S insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or COUNTY.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR'S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.



County of Santa Barbara: General Services
Capital Division

8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

END EXHIBIT D



County of Santa Barbara: General Services
Capital Division

EXHIBIT E
NOTICES

1. All notices are deemed to have been given when made in writing and delivered or mailed to the representatives of Owner and Consultant at their respective addresses as follows:

a. Owner:

County of Santa Barbara
Capital Division
1105 Santa Barbara St. (Historic Courthouse, 2nd Floor)
Santa Barbara, CA 93101

Attention: Patrick Zuroske, Assistant Director, General Services Department
(805) 568-3096 / pzuroske@countyofsb.org

b. Consultant:

Diversified Project Services International, Inc.
705 Fiero Lane, Suite 10
San Luis Obispo, CA 93401

Attention: Jesse Kaltenberg, RCE
Director of Civil Engineering

END EXHIBIT E



EXHIBIT F

CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUND REQUIRED TERMS

This Agreement is funded through the Coronavirus State and Local Fiscal Recovery Fund (SLFRF), a part of the American Rescue Plan Act (ARPA or Act), Pub. L. No. 117-2 (March 11, 2021) (codified as 42 U.S.C. § 801 *et seq.*). ARPA imposes certain requirements through the Act, its implementing regulations at 2 CFR Part 200, the Award Terms and Conditions imposed by the U.S. Department of the Treasury (Treasury) onto the COUNTY, and Treasury's *Coronavirus State and Local Fiscal Recovery Funds Compliance and Reporting Guidance*. In recognition of these funding requirements, CONTRACTOR agrees to the following provisions:

1. GENERAL COMPLIANCE.

CONTRACTOR shall comply with the requirements of the Act; the SLFRF; the United States Department of the Treasury Coronavirus State Fiscal Recovery Fund Award Terms and Conditions imposed by the U.S. Department of the Treasury (Treasury) onto the COUNTY; and all other applicable federal, state, and local laws, regulations, ordinances, orders, rules, guidelines, directives, circulars, bulletins, notices, and policies governing SLFRF currently and as they may be amended from time to time.

2. USE OF FUNDS.

- A. CONTRACTOR agrees that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of this Agreement.
- B. CONTRACTOR understands and agrees the funds disbursed under this contract may only be used in compliance with Sections 603(c) of the Act and Treasury's regulations implementing those sections and guidance.

3. REPORTING.

CONTRACTOR shall comply with any reporting obligations established by the Treasury, as they relate to this Agreement, upon request from COUNTY.

4. MAINTENANCE OF AND ACCESS TO RECORDS.

- A. Pursuant to 2 CFR section 200.337 and Section 4 of the Award Terms and Conditions, CONTRACTOR shall maintain records and financial documents sufficient for COUNTY to show compliance with Sections 602(c) and 603(c) of the Act, Treasury's regulations implementing those sections, and guidance regarding the eligible uses of funds.
- B. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of CONTRACTOR in order to conduct audits or other investigations.
- C. Irrespective of Section 6 – Right to Audit of the Agreement, records shall be maintained by CONTRACTOR for a period of five (5) years after final payment for the Services.

5. CONFLICT OF INTEREST.

- A. CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by



County of Santa Barbara: General Services
Capital Division

CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

- B. CONTRACTOR understands and agrees it must maintain a conflict of interest policy consistent with 2 CFR section 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. CONTRACTOR must disclose in writing to COUNTY, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 CFR section 200.112.

6. TERMINATION.

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.
- i. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
 - ii. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
 - iii. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

7. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY.



County of Santa Barbara: General Services
Capital Division

- A. COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.
- B. Unless otherwise specified in the Agreement, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

8. EQUAL EMPLOYMENT OPPORTUNITY.

During the performance of this Agreement, CONTRACTOR agrees as follows:

- A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- i. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - ii. CONTRACTOR agrees to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, as supplemented in Department of Labor regulations (41 CFR Part 60) and all other applicable rules, regulations, and relevant orders of the Secretary of Labor. Title 41 CFR section 60.14 applies to this Agreement and is incorporated herein by this



County of Santa Barbara: General Services
Capital Division

reference with the same force and effect as if the regulation were specifically set out herein and CONTRACTOR agrees to comply with said regulation.

- iii. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- iv. In the event of CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- v. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (F) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

9. NONDISCRIMINATION.

- A. CONTRACTOR shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement.
- B. CONTRACTOR shall report any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome.
- C. CONTRACTOR shall incorporate the language in Section 10 (A) through (B). in every agreement with a contract or purchase order funded under this Agreement.
- D. CONTRACTOR shall comply with the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., as codified at 45 CFR Part 91, which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.
- E. CONTRACTOR shall comply with Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, 1682, 1683, 1685, and 1686, as codified at 45 CFR Part 86, which provides that no person



County of Santa Barbara: General Services
Capital Division

in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.

10. CLEAN AIR ACT.

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. CONTRACTOR agrees to report each violation to the California Environmental Protection Agency and understands and agrees that the California Environmental Protection Agency will, in turn, report each violation as required to assure notification to the COUNTY, the Federal Agency which provided funds in support of this Agreement, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

11. FEDERAL WATER POLLUTION CONTROL ACT.

- A. 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.
- B. CONTRACTOR agrees to report each violation to the California State Water Resources Control Board and understands and agrees that the California State Water Resources Control Board will, in turn, report each violation as required to assure notification to the COUNTY, the Federal Agency which provided funds in support of this Agreement, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

12. DEBARMENT AND SUSPENSION.

- A. As required by 2 CFR section 200.214, CONTRACTOR warrants that it is not subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180, which restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.
- B. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that CONTRACTOR did not comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, in addition to remedies available to the California Governor's Office of Emergency Services and COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- C. This Agreement is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part 3000. As such CONTRACTOR is required to verify that none of the CONTRACTOR, its principals (defined at 2 CFR section 180.995), or its affiliates (defined at 2 CFR section 180.905) are excluded (defined at 2 CFR section 180.940) or disqualified (defined at 2 CFR section 180.935).
- D. CONTRACTOR must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.



County of Santa Barbara: General Services
Capital Division

- E. The bidder or proposer agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part. 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.

13. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED).

CONTRACTOR shall file the required certification attached as Attachment A Certification for Contracts, Grants, Loans, and Cooperative Agreement (Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended)), which is incorporated herein by this reference. 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.

14. PROCUREMENT OF RECOVERED MATERIALS.

- C. In the performance of this Agreement, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - i. Meeting contract performance requirements; or
 - ii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

15. DOMESTIC PREFERENCES FOR PROCUREMENTS.

- A. As appropriate and to the extent consistent with law, the CONTRACTOR should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontractor agreements.
- B. For purposes of this section:
- i. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

16. PROHIBITION ON CERTAIN TELECOMM PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

- A. CONTRACTOR is prohibited from obligating or expending loan or grant funds to:
- i. Procure or obtain;



County of Santa Barbara: General Services
Capital Division

- ii. Extend or renew a contract to procure or obtain; or
 - iii. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- B. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - C. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - D. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
 - E. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
 - F. See Public Law 115-232, section 889 for additional information.
 - G. See also 2 CFR section 200.471.

17. MANDATORY DISCLOSURE.

CONTRACTOR must disclose, in a timely manner, in writing to the COUNTY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. CONTRACTOR is required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM) located at www.sam.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR section 200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR Part 180 and 31 U.S.C. 3321.)

18. REMEDIES FOR NONCOMPLIANCE.

In the event COUNTY determines, in its sole discretion, that CONTRACTOR is not in compliance with the terms and conditions set forth herein, COUNTY may:

- A. Wholly or partly suspend or terminate the Agreement.
- B. Require payments as reimbursements rather than advance payments;
- C. Withhold authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- D. Require additional, more detailed financial reports;



County of Santa Barbara: General Services
Capital Division

- E. Require additional project monitoring;
- F. Requiring CONTRACTOR to obtain technical or management assistance; or
- G. Establish additional prior approvals.
- H. Take other remedies that may be legally available.

19. PREVAILING WAGE

If this project meets the requirements under U.S. Treasury's FAQ dated April 27, 2022, section 6.15, the Davis-Bacon Act requirements (prevailing wage rates) do not apply to projects funded solely with ARPA awarded funds. Subrecipients and contractors may be otherwise subject to the requirements of Davis-Bacon Act, when APRA funds are used on a construction project in conjunction with funds from another federal program that requires enforcement of the Davis-Bacon Act. State of California Prevailing Wage Laws will apply to these funds.

20. COPELAND ACT.

The CONTRACTOR shall comply with the requirements of 29 CFR Part 3 as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States") which are hereby incorporated by reference in this Agreement. CONTRACTOR is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. In the case of a conflict with California Prevailing Wage law, California Prevailing Wage Law shall apply.

21. CONTRACT WORK HOURS AND SAFETY STANDARDS - OVERTIME COMPENSATION.

- A. Overtime requirements. No CONTRACTOR or subcontractor employing laborers or mechanics shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.
- B. Violation; liability for unpaid wages; liquidated damages. The responsible CONTRACTOR and subcontractor are liable for unpaid wages if they violate the terms in paragraph A. of this clause. In addition, the CONTRACTOR and subcontractor are liable for liquidated damages payable to the Government. The COUNTY will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the Contract Work Hours and Safety Standards statute (found at 40 U.S.C. chapter 37).
- C. Withholding for unpaid wages and liquidated damages. The COUNTY will withhold from payments due under the contract sufficient funds required to satisfy any CONTRACTOR or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy CONTRACTOR or subcontractor liabilities, the COUNTY will withhold payments from other Federal or Federally assisted contracts held by the same CONTRACTOR that are subject to the Contract Work Hours and Safety Standards statute.
- D. Payrolls and basic records.
 - i. The CONTRACTOR and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours



County of Santa Barbara: General Services
Capital Division

worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Construction Wage Rate Requirements statute.

- ii. The CONTRACTOR and its subcontractors shall allow authorized representatives of the COUNTY or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph D.1. of this clause. The CONTRACTOR or subcontractor also shall allow authorized representatives of the COUNTY or Department of Labor to interview employees in the workplace during working hours.
- E. Subcontracts. The CONTRACTOR shall insert the provisions set forth in paragraphs A. through D. of this clause in subcontracts may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower-tier subcontracts. The CONTRACTOR shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs "A" through "D" of this clause.
- F. In the case of a conflict with California Prevailing Wage law, California Prevailing Wage Law shall apply.

22. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS.

Except as provided in the Assistance Listing available at <https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view>, CONTRACTOR shall comply with the requirements of Title 2, Code of Federal Regulations, Part 200, which are hereby incorporated by reference in this Agreement.

23. TABLE 1: FEDERAL AWARD INFORMATION: COUNTY.

The following Federal Award Information is provided in accordance with 2 CFR section 200.332.

Federal Award Identification		
1	Contractor Name	
2	Place of Performance (address, city, state, zip)	
3	Contractor Contact (email)	
4	Contractor Unique Entity Number (UEI Number)	
5	Federal Award Identification Number (FAIN)	SLFRP5502
6	Federal Award Date	September 2021
7	Period of Performance & Budget Period- Start Date	
8	Period of Performance & Budget Period- End Date	
9	Federal Award Project Description	
10	Federal Awarding Agency	Department of the Treasury
11	Pass-Through Entity	County of Santa Barbara
12	Contact Information for Awarding Official of Pass-Through Entity	Mona Miyasato, County Executive Officer, (805) 568-3400
13	CFDA Number	21.027
14	CFDA Name	Coronavirus State and Local Fiscal Recovery Funds
15	Is the Contractor Registered on SAM.gov (Yes/No)	
16	If not registered on SAM.gov (Question #24) did the contractor receive 80% or more of its annual gross revenue from federal funds in the preceding fiscal year (Yes/No)	



County of Santa Barbara: General Services
Capital Division

17	If not registered on SAM.gov (Question #24) did the contractor receive \$25 million or more of its annual gross revenue from federal funds in the preceding fiscal year (Yes/No)	
----	--	--

Attachment A

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS
(Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))**

The undersigned CONTRACTOR certifies, to the best of his or her knowledge, 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 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 contractors 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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

DocuSigned by:

Jesse Kaltenberg _____
26389EF04D934F6...
Signature of CONTRACTOR's Authorized Official

1/11/2024 | 2:31 PM PST

Date

Jesse Kaltenberg, R.C.E.
Name and Title of CONTRACTOR's Authorized Official

END EXHIBIT F



County of Santa Barbara: General Services
Capital Division

ATTACHMENT 1

(see attached)

January 9, 2024

Darrell Goo
County of Santa Barbara
1105 Santa Barbara Street (2nd Floor)
Santa Barbara, CA 93101

via email: dgoo@countyofsb.org

SUBJECT: PROPOSAL FOR SERVICES | CALLE REAL WATER MAIN IMPROVEMENTS

Dear Mr. Goo:

We are pleased to provide you with this proposal for civil engineering services for the Calle Real Water Main Improvements and New Water Loop Design in Santa Barbara County, California. In July 2021, Diversified Project Services International, Inc. (DPSI) entered into a Professional Services Agreement (PSA) with the County of Santa Barbara (Project 19102 dated July 12, 2021) to provide engineering services for the Calle Real upgrade system. The scope of work under that PSA included Phase 1: Existing Water Main System Improvements and Phase 2: New Water Main Loop Design.

The County of Santa Barbara has requested that DPSI submit a new proposal since the 24-month term of the PSA has expired and the full scope of work for Phase 2 has not yet been completed. The scope of this proposal includes the County's request to divide the remaining Phase 2 construction work as follows:

- Base Bid: South Loop to include tie-in with the Goleta Water Co Supply Facilities
- Bid Alternate 1: Loop Cross Connection
- Bid Alternate 2: Northwest Loop Portion
- Bid Alternate 3: Northeast Loop Portion

DPSI will provide the following services as described below.

SCOPE OF SERVICES

TASK 1 CONSTRUCTION DRAWING MODIFICIATONS

DPSI will modify the Phase 2 construction drawings to include revisions to the alignments per County request and as shown in the County's markup referred to as Sheet 3A (see Exhibit C). In addition, DPSI will provide new construction notes to clearly define the terminus points for the base bid and the bid alternates as discussed and delineated by the County on Sheet 3A.

DELIVERABLES

- Revised Phase 2 construction drawings

TASK 2 ENGINEER'S COST ESTIMATE REVISIONS

DPSI will revise the Phase 2 engineer's probable construction cost estimate to incorporate the work discussed in Task 1. DPSI will provide new lump sum bid items for the potential work involved at each bid alternate termination point. However, the estimate will continue to represent the project costs by sheet number, and not be separated by base bid or bid alternatives.

DELIVERABLES

- Revised engineer's cost estimate

TASK 3 CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES

DPSI will provide construction administration and inspection services as requested by the County. The scope of services will include:

- Bidding support
 - Review and confirmation that low bid is fair and reasonable
- RFI support
 - Response to questions and requests for clarifications provided on an as-needed basis
- Plan revisions / addenda
 - Revisions if any errors or concerns arise or if clarifications are needed
 - Compilation of all revisions, clarifications, and addenda into a conform set to be issued at the close of bidding for construction
- Submittal reviews
 - Review of contractor submittals to ensure consistency with plans and contract documents
- Site visits
 - On-site visits during the course of construction with subsequent site reports

The County will provide a Construction Manager (CM) and Resident Engineer (RE) to act in responsible charge. Construction management items that are understood to be the responsibility of the County and not included in the scope of this task include:

- Project updates
- Schedules
- Budgets
- Daily logs
- As-built plans
- File management
- Bid analysis and award
- Contract administration
- Supply and purchase of materials
- Quality assurance and quality control
- Site safety

CLARIFICATIONS AND ASSUMPTIONS

The following clarifications and assumptions apply to this proposal and are in addition to those stated in the above scope descriptions:

- The scope of work contracted under the original PSA 19102 including Phase 1: Existing Water System Improvements (Phases 1.A, 1.B, 1.C, and 1.D) and Phase 2 (Phases 2.A, 2.B, and 2.C) has been completed. The Construction Administration and Inspections Services for Phase 2 (Phase 2.D) was not completed prior to the expiration of PSA 19102 and will now be handled under the Task 3 scope of work and revised fee stated in this proposal.
- As-built plans are the responsibility of the County and are not included in the scope of this proposal.
- The County is to communicate any design, budgetary, or scheduling criteria or constraints prior to work commencing and provide timely input and responses throughout the course of the project to facilitate the work process.
- Any design changes requested by the County that significantly alter the scope of work and result in increased services will be handled under an Additional Services Agreement.
- All required project permits and any associated fees are the responsibility of the County.
- Deliverables will be in electronic format unless otherwise requested.

FEE SUMMARY

TASK	DESCRIPTION	TIME & MATERIALS
Task 1	Construction Drawing Modifications	\$ 6,475
Task 2	Engineer's Estimate Revisions	\$ 4,615
Task 3	Construction Administration and Inspection Services	\$ 18,400
TOTAL		\$ 29,490

- The fees stated above are based on non-prevailing wage rates.
- Estimated time and materials fees will not exceed the amount listed without prior written authorization from client.

TERMS AND CONDITIONS

This agreement consists of the scope of services, the following terms, and any exhibits or applicable documents attached. This agreement supersedes any and all prior negotiations, correspondence, or agreements either written or oral. Any changes to this agreement must be mutually agreed to in writing. It is understood that all work done by DPSI will be performed in accordance with the terms and conditions to be provided by the County of Santa Barbara.

DPSI bills monthly work in progress and payment is due no later than 30 days of receipt of the bill. Overdue amounts will be surcharged at 18 percent per annum or 1.5 percent monthly.

If you have any questions or would like clarification on the scope of services or fees outlined above, please do not hesitate to contact us. We thank you for this opportunity to offer our services.

Respectfully submitted,
DIVERSIFIED PROJECT SERVICES INTERNATIONAL, INC.



Jesse Kaltenberg, PE, QSD/P
Civil Engineering Manager

Enclosures:

- Exhibit A | Fee Estimate and Rate Sheet
- Exhibit B | Consultant Staff
- Exhibit C | Sheet 3A

EXHIBIT A

Project: County of Santa Barbara - Calle Real Water Main Improvements
 Date: January 9, 2024



2024 Rates 230 170 155 175 135

Item	Jesse Kaltenberg Senior Engineer	Rey Jaimes Designer III	CAD Tech III	Project Manager	Project Technician	Total
	HRS	HRS		HRS	HRS	\$
Civil Design Services						\$29,490
PHASE 2: NEW WATER MAIN LOOP DESIGN						
Task 1 - Construction Document Modifications						\$6,475
Design & Drafting	6	8	16			\$5,220
Project Coordination	2			3	2	\$1,255
Task 2 - Engineer's Estimate Revisions						\$4,615
Quantities and Costs	4	8			8	\$3,360
Project Coordination	2			3	2	\$1,255
Task 3 - Construction Administration and Inspection Services						\$18,400
RFI Responses	20					\$4,600
Submittal Reviews	20					\$4,600
Course of Construction Site Visits	40					\$9,200
Total	94	16	16	6	12	

2024 Engineering & Construction Management

Classification	Rate/Hour
Chief Engineer.....	240.00
Senior Engineer.....	230.00
Engineer I, II, III.....	160.00 / 175.00 / 200.00
Associate Engineer.....	145.00
Senior Project Manager.....	220.00
Project Manager I, II, III.....	175.00 / 195.00 / 210.00
Construction Rep I, II, III.....	155.00 / 160.00 / 170.00
Designer I, II, III.....	155.00 / 160.00 / 170.00
SWPPP Inspector.....	155.00
Project Coordinator / Permit Coordinator.....	155.00
CAD Technician I, II, III.....	120.00 / 130.00 / 155.00
Project Controls I, II, III.....	155.00 / 160.00 / 165.00
Safety Specialist.....	160.00
Safety Coordinator.....	145.00
Project Technician.....	135.00
Project Assistant I, II, III.....	120.00 / 125.00 / 130.00
Administrative Assistant.....	95.00
Expert Testimony.....	530.00
Expert Consultation.....	330.00

Offshore work will be billed at a premium rate of an additional \$10/hour to cover higher insurance costs. A premium multiplier of 1.5 for employees working over 8 hours per day and/or weekends, and 2.0 for employees working over 12 hours per day or over 8 on Sunday will be applied following California general overtime provisions.

Reimbursable Expenses

Plots.....	\$10.00 per sheet	Mileage.....	\$1.50/mile
Photocopies.....	\$0.20 per page	Truck/SUV.....	\$12/hour
Color Copies (8 ½ x 11).....	\$1.50 per page	Travel - Other Than Automobile.....	Cost + 15%
Color Copies (11 x 17).....	\$3.00 per page	Per Diem.....	Cost + 15%
Other Reproduction.....	Cost + 15%	Permit Fees.....	Cost + 15%
Shipping (UPS, Fed Ex, etc.).....	Cost + 15%	Sub-consultant Fees.....	Cost + 15%

EXHIBIT B
CONSULTANT'S STAFF & SUBCONSULTANTS

1. Consultant declares that the Principal-in-Charge will be Samuel D. Lux, Director of Civil Engineering. Consultant declares that the Project Manager will be Jesse Kaltenberg, PE.
2. Consultant does not propose to employ Subconsultants for the scope of work described in this proposal.

