

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and **BENGAL ENGINEERING, INC.** with an address at **360 SOUTH HOPE STREET, SUITE C-110, SANTA BARBARA, CALIFORNIA 93105** (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein for **engineering design for the Tuckers Grove Bridge Replacement Project.**

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Jill Van Wie at phone number (805) 568-2470 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. **Scott Onishuk** at phone number **(805) 563-0788 ext102** is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery, e-mail, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Jill Van Wie
County of Santa Barbara Community Services Department, Parks Division
123 E. Anapamu St., 2nd Floor
Santa Barbara, CA 93101
E-Mail: jvanwie@countyofsb.org

To CONTRACTOR: Scott Onishuk
Bengal Engineering, Inc.
360 S. Hope St., Suite C-110
Santa Barbara, CA 93105
E-Mail: scott@bengalengineering.com

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM

CONTRACTOR shall commence performance upon Board approval of this contract and end performance upon completion, but no later than **December 31, 2024** unless otherwise directed by the COUNTY's Designated Representative or unless earlier terminated.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus

interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

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 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.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

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.

Unless otherwise specified in Exhibit A, 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.

12. NO PUBLICITY OR ENDORSEMENT

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

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such

items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

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

17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. 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.

1. **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.
 2. **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.
 3. **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. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. 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.

20. **SECTION HEADINGS**

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. **SEVERABILITY**

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, 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 Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY 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.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

25. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

28. CALIFORNIA LAW AND JURISDICTION

This Agreement 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.

29. EXECUTION OF COUNTERPARTS

This Agreement 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.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. PRECEDENCE

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 of the Exhibits shall prevail over those in the numbered sections.

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **Bengal Engineering, Inc.**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
Steve Lavagnino, Chair
Board of Supervisors

Date: _____

**RECOMMENDED FOR APPROVAL:
Community Services**

**CONTRACTOR:
Bengal Engineering, Inc.**

DocuSigned by:
George Chapjian
By: _____
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George Chapjian, Director

DocuSigned by:
Md. Wahiduzzaman
By: _____
91A6B2C10773423...
Authorized Representative

Name: Md. Wahiduzzaman, P.E.

Title: President

APPROVED AS TO FORM:

Rachel Van Mullem
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy Schaffer, CPA, CPFO
Auditor-Controller

DocuSigned by:
Tyler Sprague
By: _____
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Deputy County Counsel

DocuSigned by:
[Signature]
By: _____
65AAE913001945E...
Deputy

APPROVED AS TO FORM:

Risk Management
Greg Milligan

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

EXHIBIT A

STATEMENT OF WORK

CONTRACTOR will provide additional professional services, including, but not limited to, the following scope of work for completion of the engineering design (Phase 2) for the Tuckers Grove Bridge Replacement project:

2.1 PROJECT ADMINISTRATION

CONTRACTOR shall coordinate with its internal design team and COUNTY stakeholders, and shall track project schedule, budget, and quality assurance/quality control (QA/QC) to ensure timely delivery of the Phase 2 effort, which shall include, but not be limited to:

- Project Management;
- Progress Meetings; and
- QA/QC.

2.2 PROJECT SURVEYS AND MAPPING

CONTRACTOR will provide updated topographic mapping for detailed design of the project including double checking the presence of existing trees pursuant to 2023 storm flooding and additional topography for the stream conforms.

2.3 ENVIRONMENTAL PERMITTING SUPPORT

CONTRACTOR will provide responses to questions from regulatory agencies, including California Department of Fish and Wildlife (CDFW), United States Army Corps of Engineers (USACE), United States Fish and Wildlife Service (USFWS), and Regional Water Quality Control Board (RWQCB) during the permit process. COUNTY will initiate the required permits from the regulatory agencies.

2.4 FINAL HYDRAULIC DESIGN

CONTRACTOR will prepare a final hydraulic study and report. The report will include:

- Executive summary;
- Low water crossing history;
- Basin and drainage;
- Hydraulic Engineering Center River Analysis System (HEC-RAS) hydraulic analyses;
- Scour analysis;
- Bank protection design parameters;
- References; and
- Appendices.

2.5 COORDINATION WITH FLOOD CONTROL

CONTRACTOR will coordinate with Santa Barbara County Flood Control District during the project, including the limits of the grading within San Antonio Creek, the proposed creek landscaping planting pallet, the implementation of anticipated planted rock slope protection, and potential impacts to debris basins.

2.6 FINAL FOUNDATION REPORT

CONTRACTOR has already prepared a "Preliminary Foundation Report" (PFR) dated October 16, 2023, for this project. CONTRACTOR will prepare a "Final Foundation Report" (FR). A Log of Test Borings (LOTB) sheet will be provided in the report. The FR will be prepared by updating the items included in the PFR and including results of additional analysis and recommendations necessary for the preparation of the structure plans, specifications and estimates (PS&E). The FR is anticipated to include the following items:

- Soil/ rock, and groundwater conditions encountered;
- Site geology, faulting, and seismicity;
- Potential for geologic hazards to impact the project and geotechnical seismic design recommendations (e.g., surface rupture hazard design Acceleration Response Spectrum (ARS), design peak ground acceleration (PGA) and earthquake magnitude, and secondary seismic hazards including soil liquefaction, slope instability and/or lateral spreading, landslides, flooding/inundation, and ground subsidence);
- Corrosion considerations for structure design;
- Recommended foundation type for the conditions encountered (such as spread footings, driven concrete or steel piles, or cast-in-drilled hole (CIDH) concrete piles);
- Foundation design recommendations including the foundation size, embedment depth, and geotechnical design parameters for all three Load and Resistance Factor Design (LRFD) limits states, which includes foundation nominal resistances for the Strength and Extreme (Seismic) designs, and abutment slope stability evaluation and settlement as part of the Service Limit State design;
- For deep foundations, geotechnical design parameters will include pile spacing and group reduction factors for vertical and lateral loads, and soil parameters for lateral analysis;
- Lateral earth pressures, spring constants, and passive pressure resistance for abutment design; and
- Construction considerations specific to the site conditions and the recommended foundation type.

2.7 WATER QUALITY MANAGEMENT PLAN

CONTRACTOR will prepare a post-construction storm water management plan in accordance with the County Storm Water Management Program (SWMP) and the State's post construction stormwater requirements. A stormwater control plan will be included in the PS&E package as well as plans, specifications, and an estimate for pollution prevention and treatment Best Management Practices (BMPs).

2.8 65% PLANS AND ESTIMATE

2.8.1 65% Roadway Civil Design

The roadway civil design will proceed based on the Geometric Approval Drawings (GAD) provided by CONTRACTOR on October 31, 2023. The Typical Section drawings for the roadway will include the roadway structural section based on CONTRACTOR's recommendations. The proposed channel improvements, also shown on the GAD, including planted rock slope protection, will be completed by CONTRACTOR. Plan and Profile sheets for the roadway and channel will be produced by CONTRACTOR. The plan and profile views provided by CONTRACTOR will delineate both the horizontal and vertical alignments. The drainage plans shown in the GAD submittal will be completed

by CONTRACTOR. A “conceptual stream bypass plan” will be created for the general contractor’s use. Construction Details will be provided by CONTRACTOR to show specific improvement details.

2.8.2 65% Bridge Design

Bridge design will be in accordance with American Association of State Highway and Transportation Officials (AASHTO) LRFD Bridge Design Specifications, Eighth Edition with California Amendments (AASHTO-CA BDS-8) and applicable sections of the Caltrans Bridge Memo to Designers and Bridge Design Aids manuals. The design will meet County, Caltrans and FHWA standards in effect as of the date of this Amendment. Seismic design will be performed in accordance with the latest edition of the Caltrans Seismic Design Criteria. Plan details will be in accordance with Caltrans Bridge Design Details Manual. Both the design and detailing will be based on the use of the latest County Standards and Caltrans Standard Plans and Standard Specifications.

2.8.3 Traffic Handling

In the interest of safety and cost practicality, COUNTY envisions the east portion of the park will be closed to cars and pedestrians during construction, and that the Contractor will use this space for “Construction Laydown”; therefore no traffic handling plans are to be included in CONTRACTOR’s work. CONTRACTOR shall include provisions in the bid package for the general contractor to prepare and provide temporary fencing plans and signing. The requirements for that fencing and signing will be defined in the Specifications based on conversations with COUNTY staff as the design progresses.

2.8.4 65% Landscape Design

CONTRACTOR will provide landscape plans developed by a licensed Landscape Architect under a Time and Materials (T&M) subcontract. The plans will include tree planting to accommodate removals and replacements (mitigation planting) along with appropriate vegetation in the creek and along the approach roadway.

2.8.5 Specifications

Due to the project time constraints, CONTRACTOR will not prepare Specifications as part of the 65% milestone. CONTRACTOR will prepare an items list to provide a basis as to which Caltrans Standard Specifications will be utilized on the project for use in preparing the engineer’s estimate.

2.8.6 65% Plans, Contract Items List and Estimate Submittal

CONTRACTOR will provide a submittal of the 65% plans to COUNTY. The 65% P&E submittal will include civil, utility, bridge, and landscape plans adding further detailed information from the GAD. CONTRACTOR will prepare and provide a preliminary contract item list, as well as an updated estimate reflecting changes from the preliminary design. CONTRACTOR will perform an independent QA/QC review of the 65% plans and incorporate appropriate revisions prior to submittal to COUNTY. CONTRACTOR will attend one submittal review meeting. Upon receipt of County comments on the 65% plans submittal, CONTRACTOR will review and incorporate applicable revisions into the design and will resubmit with the draft 95% PS&E submittal.

2.9 95% PLANS, SPECIFICATIONS AND ESTIMATE

2.9.1 Bridge Design Check

CONTRACTOR will perform an independent design check of the bridge plans in conformance with Caltrans bridge design procedures. Upon completion of design check, discrepancies between the design and checker will be reconciled and plans updated for preparation of quantities, estimate and specifications. CONTRACTOR will prepare responses to comments received on the 65% submittal.

2.9.2 95% Civil, Landscape and Bridge Design

CONTRACTOR will update civil, landscape and bridge plans and respond to comments received from the 65% submittal. Further details will be added to represent a 95% plan set detailing the work to reflect the level of design.

2.9.3 Specifications

CONTRACTOR will prepare technical specifications (called "special provisions" in Caltrans format) for the project. CONTRACTOR will use the Caltrans Standard Specifications and Special Provisions which are in effect at the time design commences. CONTRACTOR will include any necessary mitigation measures which may be required by regulatory agencies and the final environmental document. COUNTY will prepare the bid package, including the General Conditions. CONTRACTOR will provide a bid form for inclusion into the bid package, and will supply project specific information to COUNTY for inclusion into the COUNTY bid package.

2.9.4 Engineer's Estimate

CONTRACTOR will prepare an "Engineer's Estimate" for budgeting and planning. CONTRACTOR will prepare this estimate based on our experience and available data, generally following the Caltrans format.

2.9.5 95% PS&E Submittal

CONTRACTOR will submit 95% PS&E to COUNTY. The 95% PS&E submittal will address comments to the 65% submittal as appropriate and add further information.

2.10 100% PLANS, SPECIFICATIONS AND ESTIMATE

Upon receipt of COUNTY comments from the 95% PS&E submittal, and other jurisdictional agencies which will be routed through COUNTY, final revisions will be made. The 100% PS&E submittal will address the 95% plan check comments and add further information. CONTRACTOR will incorporate appropriate comments in the plans, specifications, and estimates. CONTRACTOR will perform an independent QA/QC review of the 100% submittal package and incorporate appropriate revisions prior to final submittal to COUNTY.

2.11 BID ASSISTANCE

CONTRACTOR shall attend one on site mandatory general contraction site visit to provide information on the PS&E and provide responses to Requests for Information (RFI) during the bid process.

ASSUMPTIONS AND EXCLUSIONS

- COUNTY stakeholders will participate proactively throughout the course of the project and the project will proceed uninterrupted.
- COUNTY’s review will be made on half sized drawings. COUNTY will organize a single set of comment plans for CONTRACTOR’s use.
- Rock Slope Protection will be sized empirically: no calculations or report will be prepared by CONTRACTOR.
- COUNTY will be responsible for environmental studies, documentation, and permitting.
- Potholing of utilities is not included in CONTRACTOR work.
- Fish Enhancement: No effort for designing “fish features” is included in CONTRACTOR work.
- Sediment Transport Analysis is not included in CONTRACTOR work because such is not expected to be required by any regulatory agency.
- There is not an anticipated need for right-of-way activities, acquisition, nor utility agreements associated with this project.
- FEMA LOMR or CLOMR effort is excluded. It is anticipated that a “no-rise” certification will be sufficient.

Suspension for Convenience. COUNTY may, without cause, order CONTRACTOR in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part. COUNTY shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

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EXHIBIT B**PAYMENT ARRANGEMENTS****Periodic Compensation (per Schedule of Fees)**

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid on a time and materials basis for a total contract amount, including cost reimbursements, not to exceed **\$292,286**.
- B. Payment for services and/or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope contained in **EXHIBIT A**, as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **EXHIBIT B** (Schedule of Fees). Invoices submitted for payment that are based upon the Schedule of Fees noted in **EXHIBIT B** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT B**.

SCHEDULE OF FEES*

Project Manager	\$	198.59
Bridge Engineer	\$	198.59
Geotechnical Engineer	\$	198.59
Engineering Geologist	\$	198.59
Civil Engineer	\$	144.79
Designer	\$	129.42
Drafting / Technician	\$	120.32
Administrative	\$	115.65
Subcontractors		Cost + 10% oversight
Travel		Cost; No cost for projects within Santa Barbara County
Vehicle		Current IRS rate; No cost for projects within Santa Barbara County
Reproduction/Postage, Etc.		Cost

- C. CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE a monthly invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of the Schedule of Fees noted in **EXHIBIT B** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

EXHIBIT C

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 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 revision is 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.
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.

EXHIBIT D
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUND REQUIRED TERMS
SUBRECIPIENT AGREEMENT

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, SUBRECIPIENT agrees to the following provisions:

1. GENERAL COMPLIANCE.

- A. SUBRECIPIENT 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.
- B. SUBRECIPIENT agrees to comply with the requirements of Section 603 of the Act, regulations adopted by Treasury pursuant to Section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. SUBRECIPIENT also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and SUBRECIPIENT shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this subaward.
- C. Federal regulations applicable to this subaward include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this subaward.
 - ii. Universal Identifier and System for Award Management (SAM) 2 CFR Part 25, pursuant to which the award term set forth in Appendix A to 2 CFR Part 25, is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 CFR Part 170, pursuant to which the award term set forth in Appendix A to 2.CFR Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part 180 and Treasury's implementing regulation at 31 CFR Part 19.

- v. Recipient Integrity and Performance matters, pursuant to which the award term set forth in 2 CFR Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 CFR Part 20.
 - vii. New Restrictions on Lobbying, 31 CFR Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. Sections 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- D. Statutes and regulations prohibiting discrimination applicable to this subaward, include without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) and Treasury's implementing regulations at 31 CFR Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Sections 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101 et seq.), and Treasury's implementing regulations at 31 CFR Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. Sections 12010 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

2. USE OF FUNDS.

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

3. REPORTING.

SUBRECIPIENT 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, SUBRECIPIENT 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 SUBRECIPIENT in order to conduct audits or other investigations.
- C. Records shall be maintained by SUBRECIPIENT for a period of five (5) years after final payment for the Services.

5. PRE-AWARD COSTS.

Pre-award costs, as defined in 2 CFR section 200.458, may not be paid with funding from this subaward.

6. ADMINISTRATIVE COSTS.

SUBRECIPIENT may use funds provided under this subaward to cover both direct and indirect costs.

7. CONFLICT OF INTEREST.

- A. SUBRECIPIENT covenants that SUBRECIPIENT 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. SUBRECIPIENT further covenants that in the performance of this Agreement, no person having any such interest shall be employed by SUBRECIPIENT. SUBRECIPIENT must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by SUBRECIPIENT if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to SUBRECIPIENT in writing.
- B. SUBRECIPIENT 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. SUBRECIPIENTS must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 CFR section 200.112.

8. TERMINATION.

- A. By COUNTY. COUNTY may, by written notice to SUBRECIPIENT, 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 SUBRECIPIENT 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, SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT 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, SUBRECIPIENT 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 SUBRECIPIENT, unless the notice directs otherwise.
- B. **By SUBRECIPIENT.** Should COUNTY fail to pay SUBRECIPIENT all or any part of the payment set forth in EXHIBIT B, SUBRECIPIENT may, at SUBRECIPIENT's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. Upon termination, SUBRECIPIENT 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 SUBRECIPIENT in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit SUBRECIPIENT to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay SUBRECIPIENT 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 SUBRECIPIENT be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. SUBRECIPIENT 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 SUBRECIPIENT. In the event of a dispute as to the reasonable value of the services rendered by SUBRECIPIENT, 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.

9. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY.

- 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. SUBRECIPIENT shall not release any of such items to other parties except after prior written approval of COUNTY.

- B. Unless otherwise specified in the Agreement, SUBRECIPIENT 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 SUBRECIPIENT 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. SUBRECIPIENT 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. SUBRECIPIENT 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. SUBRECIPIENT 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 SUBRECIPIENT hereunder infringe upon intellectual or other proprietary rights of a third party, and SUBRECIPIENT 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.

10. EQUAL EMPLOYMENT OPPORTUNITY.

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

- A. SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. SUBRECIPIENT 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. SUBRECIPIENT 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. SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- i. SUBRECIPIENT 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 SUBRECIPIENT'S commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- ii. SUBRECIPIENT 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 reference with the same force and effect as if the regulation were specifically set out herein and SUBRECIPIENT agrees to comply with said regulation.

- iii. SUBRECIPIENT 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 SUBRECIPIENT'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 SUBRECIPIENT 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. SUBRECIPIENT 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 contractor or vendor. SUBRECIPIENT 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 SUBRECIPIENT becomes involved in, or is threatened with, litigation with a contractor or vendor as a result of such direction by the administering agency SUBRECIPIENT may request the United States to enter into such litigation to protect the interests of the United States.

11. NONDISCRIMINATION.

- A. SUBRECIPIENT 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. SUBRECIPIENT 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. SUBRECIPIENT shall incorporate the language in Section 10 (A) through (B). in every agreement with a contract or purchase order funded under this Agreement.
- D. SUBRECIPIENT 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. SUBRECIPIENT 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 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.

12. CLEAN AIR ACT.

- A. SUBRECIPIENT 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. SUBRECIPIENT 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. SUBRECIPIENT agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

13. FEDERAL WATER POLLUTION CONTROL ACT.

- A. SUBRECIPIENT 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. SUBRECIPIENT 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. SUBRECIPIENT agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

14. DEBARMENT AND SUSPENSION.

- A. As required by 2 CFR section 200.214, SUBRECIPIENT 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. SUBRECIPIENT certifies that it shall not contract with a contractor that is so debarred or suspended.
- B. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that SUBRECIPIENT 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 SUBRECIPIENT is required to verify that none of the SUBRECIPIENT, 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. SUBRECIPIENT 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.
- 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.

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

SUBRECIPIENT 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.

16. PROCUREMENT OF RECOVERED MATERIALS.

- A. In the performance of this Agreement, SUBRECIPIENT 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;
 - ii. Meeting contract performance requirements; or
 - iii. 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>.

17. DOMESTIC PREFERENCES FOR PROCUREMENTS.

- A. As appropriate and to the extent consistent with law, the SUBRECIPIENT 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 contract 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.

18. PROHIBITION ON CERTAIN TELECOMMUNICATIONS PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

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

19. MANDATORY DISCLOSURE.

SUBRECIPIENT 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. SUBRECIPIENT 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.)

20. REMEDIES FOR NONCOMPLIANCE.

- A. In the event of SUBRECIPIENT's noncompliance with Sections 602 and 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury or the COUNTY may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 CFR Section 200.339. In the case of a violation of Section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in Section 603(e) of the Act.
- B. In addition, in the event COUNTY determines that SUBRECIPIENT is not in compliance with the terms and conditions set forth herein, COUNTY may:
 - i. Wholly or partly suspend or terminate the Agreement.
 - ii. Require payments as reimbursements rather than advance payments;
 - iii. Withhold authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
 - iv. Require additional, more detailed financial reports;
 - v. Require additional project monitoring;
 - vi. Requiring SUBRECIPIENT to obtain technical or management assistance; or
 - vii. Establish additional prior approvals.
 - viii. Take other remedies that may be legally available.

21. 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.

22. COPELAND ACT.

The SUBRECIPIENT 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. SUBRECIPIENT 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.

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

- A. Overtime requirements. No SUBRECIPIENT or contractor 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 SUBRECIPIENT or contractor are liable for unpaid wages if they violate the terms in paragraph A. of this clause. In addition, the SUBRECIPIENT or contractor 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 SUBRECIPIENT or contractor liabilities, the COUNTY will withhold payments from other Federal or Federally assisted contracts held by the same SUBRECIPIENT that are subject to the Contract Work Hours and Safety Standards statute.
- D. Payrolls and basic records.
 - i. The SUBRECIPIENT or its contractors 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 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 SUBRECIPIENT and its contractors 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 SUBRECIPIENT or contractor also shall allow authorized representatives of the COUNTY or Department of Labor to interview employees in the workplace during working hours.
- E. Subcontracts. The SUBRECIPIENT 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 contractors to include these provisions in any such lower-tier contracts. The SUBRECIPIENT shall be responsible for compliance by any contractors or lower-tier contractors 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.

24. HATCH ACT.

SUBRECIPIENT agrees to comply, as applicable, with the requirements of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7234-7238), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

25. FALSE STATEMENTS.

SUBRECIPIENT understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

26. PUBLICATIONS.

Any publications produced with funds from this subaward must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number SLFRP5502 awarded to the County of Santa Barbara by the U.S. Department of the Treasury."

27. DEBTS OWED TO THE FEDERAL GOVERNMENT.

- A. Any funds paid to SUBRECIPIENT (1) in excess of the amount to which SUBRECIPIENT is finally determined to be authorized to retain under the terms of this subaward; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to Sections 603(e) of the Act and have not been repaid by SUBRECIPIENT shall constitute a debt to the federal government.
- B. Any debts determined to be owed the federal government must be paid promptly by SUBRECIPIENT. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the SUBRECIPIENT knowingly or improperly retains funds that are a debt described in subsection i. above. Treasury will take any actions available to it to collect such a debt.
- C. If U.S. Department of the Treasury demand reimbursement from COUNTY for COUNTY's payments to SUBRECIPIENT due to SUBRECIPIENT's failure to comply with the terms of, including but not limited to, a notice of award, any applicable term of this Agreement, or any law, regulation, ordinance, order, rule, directive, circular, bulletin, notice guideline or policy referred to herein, or as may become applicable at any time, SUBRECIPIENT shall fully and completely reimburse COUNTY in the total amount of such disallowed payments. This provision shall survive the termination or expiration of this Agreement.

28. DISCLAIMER.

- A. The United States and COUNTY expressly disclaim any and all responsibility or liability to SUBRECIPIENT or third persons for the actions of the SUBRECIPIENT or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this subaward or any other losses resulting in any way from the performance of this subaward or any contract or subcontract under this award.

- B. The acceptance of this subaward by SUBRECIPIENT does not in any way establish an agency relationship between the United States and SUBRECIPIENT.

29. PROTECTION FOR WHISTLEBLOWERS.

- A. In accordance with 41 U.S.C. Section 4712, SUBRECIPIENT may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

- i. The list of persons and entities referenced in the paragraph above includes the following:
 - 1. A member of Congress or a representative of a committee of Congress;
 - 2. An Inspector General;
 - 3. The Government Accountability Office;
 - 4. A Treasury employee responsible for contract or grant oversight or management;
 - 5. An authorized official of the Department of Justice or other law enforcement agency;
 - 6. A court or grand jury; or
 - 7. A management official or other employee of SUBRECIPIENT, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- ii. SUBRECIPIENT shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

30. INCREASING SEAT BELT USE IN THE UNITED STATES.

Pursuant to Executive Order 13043, 62 FR 19217 (April 18, 1997), SUBRECIPIENT should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

31. REDUCING TEXT MESSAGING WHILE DRIVING.

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), SUBRECIPIENT should encourage its employees, SUBRECIPIENTS, and contractors to adopt and enforce policies that ban text messaging while driving, and SUBRECIPIENT should establish workplace safety policies to decrease accidents caused by distracted drivers.

EXHIBIT D – ATTACHMENT A

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

(Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))

The undersigned SUBRECIPIENT 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 SUBRECIPIENTS shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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.

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

Signature of SUBRECIPIENT's Authorized Official

Date

Md. Wahiduzzaman, President
Bengal Engineering, Inc.