

## AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

**THIS AGREEMENT** (hereafter Agreement) is made by and between the Santa Barbara County (hereafter County) and **Filippin Engineering** with an address at **354-D South Fairview, Goleta, CA 93117** (hereafter Contractor) wherein Contractor agrees to provide and County agrees to accept the services specified herein.

**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;

**WHEREAS**, this Agreement is funded through the Coronavirus State Fiscal Recovery Fund and the Coronavirus 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.*);

**WHEREAS**, ARPA imposes certain requirements through the Act, its implementing regulations at 2 C.F.R. 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*;

**WHEREAS**, in recognition of these funding requirements, CONTRACTOR agrees to the following provisions.

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

### 1. DESIGNATED REPRESENTATIVE

**Cathleen Garnand** at phone number **(805) 568-3561** is the representative of County and will administer this Agreement for and on behalf of County. **Gino Filippin** at phone number **(805) 845-4602** is the authorized representative for Contractor. Changes in designated representatives shall be made only after advance written notice to the other party. The designated County representative may also be referred to herein as the "Contract Administrator."

### 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 or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To County: Mr. Walter Rubalcava, Santa Barbara County Flood Control & Water Conservation District, 130 E. Victoria Street, STE 200, Santa Barbara, CA 93101 or by email at [wrubalc@countyofsb.org](mailto:wrubalc@countyofsb.org)  
To Contractor: Mr. Gino Filippin, Filippin Engineering, 354-D South Fairview Avenue, Goleta CA 93117 or by email at [gino@fecivil.com](mailto:gino@fecivil.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/PERFORMANCE PERIOD

- A. Contractor shall commence performance on **August 27, 2024** and end performance upon completion, but no later than **December 31, 2024** unless otherwise directed by County or unless earlier terminated.
- B. The Director of Public Works, or designee, may extend the period of performance of this Agreement for up to a period of one year by giving written notice of extension to Contractor.

### 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 Clause 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. FEDERAL AND STATE PREVAILING WAGE RATES**

- A. Contractor shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.
- D. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code § 1771.1(a)]; no contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5; and this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- E. 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.

## **7. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

- A. Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowable cost(s) of individual items.
- B. Contractor also agrees to comply with federal procedures in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Super or Omni Circular)
- C. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under applicable Federal Regulations, are subject to repayment by Contractor to County.
- D. All subcontracts shall contain the above provisions.

## **8. 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.

## **9. 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 manner consistent with the standards 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.

## **10. SUBCONTRACTING**

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between County and any subcontractor(s), and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be as fully responsible to County for the acts and omissions of its subcontractor(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor. Contractor's obligation to pay its subcontractor(s) is an independent obligation from County's obligation to make payments to the Contractor.
- B. Contractor shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by County's designated representative, except that, which is expressly identified in the approved Cost Proposal.
- C. Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to Contractor by County.
- D. Any subcontract entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subcontractors.
- E. Any substitution of subcontractor(s) must be approved in writing by County's designated representative prior to the start of work by the subcontractor(s).

## **11. SUBCONTRACTORS**

Contractor shall be fully responsible for all services performed by its subcontractor. Contractor shall secure from its subcontractor all rights for County in this Agreement, including audit rights. Contractor shall ensure subcontractor's compliance with California Labor Code, including but not limited to the payment of prevailing wage when required.

## **12. EQUIPMENT PURCHASES**

- A. Prior authorization in writing, by County's designated representative shall be required before Contractor enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or Contractor services. Contractor shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in Contractor's Cost Proposal and exceeding \$5,000 prior authorization by County's designated representative; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

Any equipment purchased as a result of this contract is subject to the following: "Contractor shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, County shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, Contractor may either keep the equipment and credit County in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established County procedures; and credit County in an amount equal to the sales price. If Contractor elects to keep the equipment, fair market value shall be determined at Contractor's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by County and Contractor, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by County."

- C. All subcontracts shall contain the above provisions.

## **13. DEBARMENT AND SUSPENSION MANDATORY DISCLOSURE**

- A. As required by 2 C.F.R. § 200.214, Contractor warrants that it is not subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. 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. Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that Contractor has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to County.
- C. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Contractor responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- D. 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](http://www.sam.gov). Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321.)
- E. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.
- F. Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, which certifies that Contractor or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility for participation in any state or local government agency contracts. Contractor certifies that it shall not contract with a subcontractor that is so debarred or suspended.

#### 14. 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.

#### 15. CONFLICT OF INTEREST

- A. Contractor shall promptly disclose in writing any financial, business, or other relationship with County that may have an impact upon the outcome of this contract, or any ensuing County construction project. Contractor shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing County construction project, which will follow. 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 hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Section.
- D. Contractor hereby certifies that neither Contractor, its employees, nor any firm affiliated with Contractor providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Contractor further certifies that neither Contractor, nor any firm affiliated with Contractor, will bid on any construction subcontracts included within the construction contract. Additionally, Contractor certifies that

no person working under this contract is also employed by the construction contractor for any project included within this contract.

- F. Except for subcontractor whose services are limited to materials testing, no subcontractor who is providing service on this contract shall have provided services on the design of any project included within this contract.

#### **16. 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.

#### **17. 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.

#### **18. 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.

#### **19. 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 five (5) 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.



Pursuant to 2 C.F.R. § 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. 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.

## **20. AUDIT REVIEW PROCEDURES**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by County's Deputy Director - Finance and Administration for Public Works.
- B. Not later than 30 days after issuance of the final audit report, Contractor may request a review by County's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by County will excuse Contractor from full and timely performance, in accordance with the terms of this contract.
- D. Contractor and subcontractor contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Contractor's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by Contractor and approved by County contract manager to conform to the audit or review recommendations. Contractor agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by County at its sole discretion. Refusal by Contractor to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

## **21. INDEMNIFICATION AND INSURANCE**

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

## **22. 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.
- C. 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.
- D. 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 reference with the same force and effect as if the regulation were specifically set out herein and CONTRACTOR agrees to comply with said regulation.

- E. 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.
- F. 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.
- G. 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.

### **23. NONDISCRIMINATION**

- A. 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.
- B. **Statement of Compliance California:**
  - 1) Contractor's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Contractor has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
  - 2) During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
  - 3) The 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.), and with the regulations relative to Title VI 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 (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of

nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest. 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.

- 4) The Contractor, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.
- 5) 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.
- 6) CONTRACTOR shall incorporate the language in Section 10 (A) through (B). in every agreement with a subcontractor or purchase order funded under this Agreement.
- 7) 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.
- 8) 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 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.

#### **24. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

Contractor warrants that this contract was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any County employee. For breach or violation of this warranty, County shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

#### **25. PROHIBITION OF EXPENDING COUNTY, STATE OR FEDERAL FUNDS FOR LOBBYING**

A. Contractor certifies to the best of his or her knowledge and belief that in accordance with the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended):

- 1) No state, federal or County appropriated funds have been paid, or will be paid by-or-on behalf of Contractor to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or 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 federal 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; Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction



was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- C. Contractor also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

**26. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT.**

Contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.) and pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). The Contractor shall promptly disclose, in writing, to the County office, to the Federal Awarding Agency, and to the Regional Office of the Environmental Protection Agency (EPA), whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of the Clean Air Act (42 U.S.C. 7401-7671q.) or the Federal Water Pollution Control Act (33 U.S.C. 1251-1387).

**27. PROCUREMENT OF RECOVERED MATERIALS**

Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**28. 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:
  - 1) "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.
  - 2) "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.

**29. 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:
  - 1) Procure or obtain;
  - 2) Extend or renew a contract to procure or obtain; or
  - 3) 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. See also 2 CFR § 200.471.

### 30. 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.

### 31. 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.

### 32. 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.

### **33. 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.

### **34. 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.

### **35. 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.

### **36. TIME IS OF THE ESSENCE**

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

### **37. 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.

### **38. 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.

### **39. IMMATERIAL CHANGES**

Contractor and County agree that immaterial changes to this Agreement such as time frame and mutually agreeable work program changes which will not result in a change to the total contract amount or to the scope of the Statement of Work may be authorized by the Public Works Director, or designee in writing, and will not constitute an amendment to the Agreement.

### **40. 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.

### **41. 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.

#### **42. 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 County court nearest to Santa Barbara County, if in federal court.

#### **43. 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.

#### **44. 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.

#### **45. 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.

#### **46. 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.

#### **47. HANDLING OF PROPRIETARY INFORMATION**

Contractor understands and agrees that certain materials which may be provided by County may be classified and conspicuously labeled as proprietary confidential information. That material is to be subject to the following special provisions:

- A. All reasonable steps will be taken to prevent disclosure of the material to any person except those personnel of Contractor working on the project who have a need to use the material.
- B. Upon conclusion of Contractor's work, Contractor shall return all copies of the material direct to party providing such material. Contractor shall contact County to obtain the name of the specific party authorized to receive the material.

#### **48. NEWS RELEASES/INTERVIEWS**

Contractor agrees for itself, its agents, employees, and subcontractors, it will not communicate with representatives of the communications media concerning the subject matter of this Agreement without prior written approval of the County Project Manager. Contractor further agrees that all media requests for communication will be referred to County's responsible personnel.

#### **49. SUSPENSION FOR CONVENIENCE**

County may without cause, order Consultant in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part for up to 45 days. County shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

#### **50. CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS REQUIREMENTS**

Section 602(b)(2) and 603(b) of the Social Security Act (the Act) as added by Section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorizes the Department of the Treasury (Treasury) to make payments to certain recipients (including cities and counties) from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (SLFRF). Contractor agrees, as a condition to receiving SLFRF funds, to the terms below.

##### **A. Use of Funds**

- 1) Contractor 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.
- 2) Contractor will determine prior to engaging in any project using this assistance it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

**B. Reporting.**

- 1) Contractor agrees to provide COUNTY with information needed by COUNTY to comply with any reporting obligations established by Treasury, as they relate to this subaward. For example, Contractor must complete financial, performance, and compliance reporting to COUNTY to enable COUNTY to meet its quarterly project and expenditure requirements as required and outlined in Part 2 of the SLFRF Compliance and Reporting Guidance (Guidance). Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied. Reporting must be consistent with the definitions pursuant to Title 2 of the Code of Federal Regulations (CFR) Section 200.1. Contractor must appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with appropriate accounting standards and principles. In addition, where appropriate, Contractor needs to establish controls to ensure completion and timely submission of all mandatory and/or compliance reporting. See Part 2 of the Guidance for a full overview of Contractor reporting responsibilities.

**C. Maintenance of and Access to Records.**

- 1) Contractor shall maintain records and financial documents sufficient to evidence compliance with Section 603(c), Treasury's regulations implementing that section, and Guidance regarding the eligible uses of funds.
- 2) 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.
- 3) Records shall be maintained by Contractor for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

**D. Pre-award Costs.**

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

**E. Administrative Costs.**

- 1) Contractor may use funds provided under this subaward to cover both direct and indirect costs.

**F. Compliance with Applicable Law and Regulations.**

- 1) Contractor 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. Contractor also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Contractor shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this subaward.
- 2) Federal regulations applicable to this subaward include, without limitation, the following:
  - 50.F.2.1. 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.
  - 50.F.2.2. 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.
  - 50.F.2.3. 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.
  - 50.F.2.4. 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.

50.F.2.5. 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.

50.F.2.6. Governmentwide Requirements for Drug-Free Workplace, 31 CFR Part 20.

50.F.2.7. New Restrictions on Lobbying, 31 CFR Part 21.

50.F.2.8. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. Sections 4601-4655) and implementing regulations.

50.F.2.9. Generally applicable federal environmental laws and regulations.

3) Statutes and regulations prohibiting discrimination applicable to this subaward, include without limitation, the following:

50.F.3.1. 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;

50.F.3.2. 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;

50.F.3.3. 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;

50.F.3.4. 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

50.F.3.5. 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.

G. Remedial Actions.

1) In the event of Contractor'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 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.

H. Hatch Act.

1) Contractor 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.

I. False Statements.

1) Contractor 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.

J. Publications.

1) 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 SLFRP-



-- awarded to the County of Santa Barbara by the U.S. Department of the Treasury."

K. Debts Owed the Federal Government.

- 1) Any funds paid to Contractor (1) in excess of the amount to which Contractor 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 Contractor shall constitute a debt to the federal government.
- 2) Any debts determined to be owed the federal government must be paid promptly by Contractor. 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 Contractor 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.

L. Disclaimer.

- 1) The United States expressly disclaim any and all responsibility or liability to Contractor or third persons for the actions of the Contractor 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.
- 2) The acceptance of this subaward by Contractor does not in any way establish an agency relationship between the United States and Contractor.

M. Protection for Whistleblowers.

- 1) In accordance with 41 U.S.C. Section 4712, Contractor 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.
- 2) The list of persons and entities referenced in the paragraph above includes the following:
  - 50.M.2.1. A member of Congress or a representative of a committee of Congress;
  - 50.M.2.2. An Inspector General;
  - 50.M.2.3. The Government Accountability Office;
  - 50.M.2.4. A Treasury employee responsible for contract or grant oversight or management;
  - 50.M.2.5. An authorized official of the Department of Justice or other law enforcement agency;
  - 50.M.2.6. A court or grand jury; or
  - 50.M.2.7. A management official or other employee of Contractor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- 3) Contractor shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

N. Increasing Seat Belt Use in the United States.

- 1) Pursuant to Executive Order 13043, 62 FR 19217 (April 18, 1997), Contractor 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.

O. Reducing Text Messaging While Driving.

- 1) Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor should encourage its employees, Contractors, and contractors to adopt and enforce policies that ban text messaging while driving, and Contractor should establish workplace safety policies to

decrease accidents caused by distracted drivers.

Agreement for services and work to be performed by Contractor between the County and Contractor.

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 of Supervisors

By: *Shirley Labuena*  
Deputy Clerk

**COUNTY OF SANTA BARBARA**

By: *Steve Lavagnino*  
Steve Lavagnino, Chair  
Board of Directors  
Date: 8-27-24

**RECOMMENDED APPROVAL:**

Chris Sneddon  
Public Works Director

By: DocuSigned by:  
*Chris Sneddon*  
67CEC4FE68B848C...

**CONTRACTOR:**

**Filippin Engineering**

By: DocuSigned by:  
*Gino Filippin*  
1182AFB794DC490...  
Authorized Representative  
Name: Gino Filippin  
Title: President

**APPROVED AS TO FORM:**

Rachel Van Mullem  
County Counsel

By: Signed by:  
*Johannali Hartley*  
C456A2FB83F7454...  
Deputy County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

Betsy M. Schaffer, CPA  
Auditor-Controller

By: DocuSigned by:  
*Betsy M. Schaffer*  
6BAAEA15901943E...  
Deputy

**APPROVED AS TO FORM:**

Greg Milligan, ARM  
Risk Manager

By: DocuSigned by:  
*Samantha Francis*  
57894B85FA18407...  
Risk Management

## **Exhibit A Statement of Work**

Contractor agrees to provide services as identified in and in accordance with the attached proposal for construction management and inspection (Attachment A1).

Contractor agrees to provide COUNTY services as identified in the attached proposal (Attachment A1). CONTRACTOR agrees that work will only commence at the issuance of a written Notice to Proceed by the Public Works Director or Director's designee.

## Attachment A1



July 3, 2024

Santa Barbara County – Project Clean Water/Water Resources Division  
130 E. Victoria Street #200  
Santa Barbara, CA 93101  
Attn: Cathleen Garnand

**SUBJECT: PROPOSAL FOR CONSTRUCTION MANAGEMENT and INSPECTION for Isla Vista Trash Capture Project - SCOPE OF WORK**

Dear Ms. Garnand:

Thank you for the opportunity to submit our proposal to perform construction management and inspection services for the Isla Vista Trash Capture Project for Santa Barbara County Water Resources Division. Filippin Engineering (FE) has performed these services on similar projects, including multiple projects with other County departments.

### **UNDERSTANDING OF THE PROJECT**

FE’s understanding of the project is based upon our proposal to the County dated April 19, 2024 and the County’s Request for Proposals. From the RFP, we understand that in 2015, the State Water Resources Control Board (SWRCB) adopted Resolution No. 2015-0019, Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California, referred to as either the Trash Amendments or the Trash Provisions. The objective of the Trash Amendments is to provide statewide consistency for controlling the discharge of trash to state waters, in order to protect aquatic life and public health beneficial uses, and reduce environmental impacts.

In June 2017, all Phase II NPDES Municipal General Permit permittees, including the County of Santa Barbara (County), were issued Water Code Section 13383 Orders by the SWRCB, stating they must comply with the Trash Amendments by 2030 via one of two compliance pathways, or “tracks,” as defined by the amendments. Track 1 requires the installation, maintenance, and operation of full trash capture systems (FCS) within certain defined storm drains. This Project will comply with the requirements of Track 1.

The Isla Vista Trash Capture Project will be located within El Colegio Road at approximately 6560 El Colegio Road in Isla Vista. Construction is expected to occur in fall of 2024. Original construction duration was 20 working days, and has been extended by addendum to 35 working days. It is expected that construction observation services would be necessary for only 20 of the 35 working days.

### **PROJECT APPROACH and SCOPE of WORK**

We understand that FE’s Construction Managers, they will be responsible for the Construction Contract administration and construction engineering, including the technical and administrative control of all Project elements, and quality assurance over the Contractor’s work.



During the project’s construction phase, our team will perform the necessary services required in execution of construction management and inspection roles, in addition to those requested in the RFP and by County staff, for the duration of the project and until the project paperwork is finalized and approved. Services provided by our Construction Management team and Construction Inspector are included below.

- » Establish coordination and communication protocols between County, permitting agencies, property owners and contractor.
- » Review, process, and log requests for clarifications and interpretations of the contract documents, shop drawings, samples and other submittals, contract schedule adjustments, change orders, proposals for substitutions, payment submittals. Provide construction document control. Document control will be performed according to the Caltrans Local Assistance Procedures Manual (LAPM).
- » Manage change orders and communicate with contractor to ensure project issues are addressed in a timely manner.
- » Work with County and contractor to resolve potential claims.
- » Conduct weekly progress meetings.
- » Track conformance with contractor’s construction schedule to keep project on track for completion within time deadlines.
- » Review progress payments submitted by contractor and determine if request for payment reflects progress of work. Submit report to County stating total contract price, payments to date, current payment requested, retention and actual amount owed for payment period.
- » Collect and review certified payroll for labor compliance. Files to be submitted as part of final project closeout package.
- » Coordinate all necessary storm water pollution compliance tracking and any necessary data entry on California Water Boards Stormwater Multiple Application and Report Tracing System (SMARTS). Ensure contractor is following proper job site management and adhering to storm water requirements.
- » Provide photographic documentation of project site prior to, during, and after construction.
- » Prepare weekly statements of working days and daily observation reports.
- » Provide full-time field observation services to verify compliance and conformance with the construction contract documents.
- » Coordinate with local jurisdiction for review of traffic control and public safety plans. Monitor throughout construction for compliance with the approved plans and safety laws and regulations.
- » Perform public relations and outreach as necessary to the surrounding community.
- » Inform the County Project Manager immediately of any potential for exceeding the schedule, contract budget or construction estimate prior to proceeding with work.

**CONSTRUCTION PHASE SCOPE FOR CONSTRUCTION MANAGEMENT**

- Construction Management Plan/Coordination of Execution
- Project Communication and Coordination
- Monitoring of and Compliance with schedules
- Draft and negotiate Change Orders
- Prepare Cost Request Bulletins and associated backup for negotiation of changes
- Weekly Statement of Working Days
- Project communication with stakeholders
- Collaboration with Design Engineer & Agency Staff





- Establish and Maintain Contract Documentation Procedures
- Progress Reporting and Record Keeping
- Maintain RFI and Submittal Logs, and review and route as necessary, and prepare responses to RFIs and Submittals
- Review and Process Progress Pay Estimates
- Research and respond to Notices of Potential Claims
- Review all Contractor correspondence and prepare responses, coordinating as necessary
- Material Substitution Requests
- Review and provide comment on Traffic Control Plan, Dewatering Plan, and Shoring Plans
- Assure compliance with plans, specs, and permits
- Claim avoidance, review, and resolution
- Chair pre-con and weekly meetings; additional meetings as required to address timely issues
- Provide agenda, minutes, action items, and distribute Contractor's schedule.
- Perform final inspection & recommend acceptance
- Prepare quantity sheets and source documents for structure work for pay requests
- Verify materials testing certifications
- Progress Meetings
- WPCP compliance monitoring
- Permit compliance monitoring
- Coordinate with contracted surveyors and material testing

FE's Construction Inspectors have successfully delivered inspection services on many state and federally funded projects and are experienced in all pertinent Caltrans standards and specifications and all other state and federal requirements for construction projects, including the LAPM. They are excellent communicators, not only with Contractor staff and the Construction Management team, but also with Agency staff and the general public. As the onsite inspectors, they will be responsible for supporting the Construction Contract administration and monitoring daily activities of the implemented work. Their duties will include those listed below, and as required to fulfill their role for the duration of the project and until the project paperwork is finalized and approved.

**CONSTRUCTION PHASE SCOPE FOR CONSTRUCTION INSPECTION**

- Construction Observation/Inspection
- Photographic documentation, prior, during, and after construction.
- Quality Assurance
- Conflict and field issue identification
- Daily inspection reports
- Quantity verification
- Material and equipment verification
- Extra work/CCO diary of work
- Coordinate materials testing per QAP
- Visually monitor dewatering system on a daily basis
- Track installed quantities for progress payment backup.
- Punchlist for final inspection
- Safety & Public Relations
- Maintain field record drawings
- Request/review material certifications
- Review bid sheet quantities for accuracy
- Traffic Control and Public Safety
- Coordinate closely with RE
- Labor Compliance

The FE Construction Management team selected for this project will apply, the pertinent standards and specifications and other state and federal requirements for construction projects, including:

- » Caltrans Local Assistance Procedures Manual and Construction Management procedures.
- » Federal regulations and ARPA requirements
- » County and Caltrans regulations, policies, procedures, guidelines, specifications, and standards





- » Latest Buy America requirements and DBE requirements

Following completion of construction, FE will perform the following post construction services:

- » Prepare reports that may be required during the final acceptance and project closeout.
- » Provide final inspection and prepare list of project construction deficiencies for resolution by contractor.
- » Make recommendations to County regarding final project approval and acceptance.
- » Prepare final progress payment report for submission to County
- » Prepare documentation needed for project closeout. Deliver all project documentation to County.

**POST-CONSTRUCTION PHASE SCOPE**

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Final Inspection and Punch List</li> <li>• Compile record drawing information (redlines) from FE and Contractor markups.</li> <li>• Make recommendation for final payment and acceptance</li> <li>• Statement of Final Quantities and/or Final Balancing Change Order</li> </ul> | <ul style="list-style-type: none"> <li>• Notice of Completion</li> <li>• Compile outstanding claim information for closeout</li> <li>• Electronic Copy of all Project Files in Caltrans standard recordkeeping guidelines.</li> <li>• Delivery of Project Files in electronic file format.</li> </ul> |
|---|---|

We realize that labor compliance is a crucial—and tedious—portion of any project, especially when there are multiple subcontractors on a project. FE performs labor compliance administration services in accordance with the LAPM and DIR, including labor compliance checks as required by 29 CFR 5. This check includes verification of upload to the DIR, collection and spot-checking of Contractor & sub-contractor submitted certified payroll reports, and labor compliance interviews.

**LABOR COMPLIANCE SERVICES**

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Collect Certified Payroll &amp; DBE Paperwork</li> <li>• Verify upload to the DIR</li> <li>• Verify Contractor posts specified posters, notices, wage determinations, etc., at the job site</li> <li>• Review daily reports, which notes employees, labor classifications, hours worked, and equipment working on the Project</li> <li>• Apply necessary sanctions against Contractor for failure to submit payroll or noncompliance with labor standard requirements</li> </ul> | <ul style="list-style-type: none"> <li>• Conduct On-site Interviews</li> <li>• Maintain Apprenticeship Certifications - Federal and State</li> <li>• Monitor Equal Employment Opportunity &amp; non-discrimination provisions</li> <li>• Compare contractor and sub-contractor force account or day labor work to certified payrolls</li> <li>• Respond to any labor compliance inquiry</li> <li>• Spot-check the payrolls or listings to ensure that, at the least, applicable Davis-Bacon or State prevailing wage rates are paid</li> </ul> |
|---|--|



**PROJECT DELIVERABLES**

The list below includes, but is not limited to, the project deliverables that we will provide to the County for each phase of the project.

**PRE-CONSTRUCTION PHASE DELIVERABLES**

- » Notice to Proceed for the Contractor
- » Proposed Submittal List
- » Pre-Construction Meeting Minutes
- » Pre-Construction Condition Documentation

**CONSTRUCTION PHASE DELIVERABLES**

- » Weekly Meeting Agendas & Minutes
- » Weekly Progress Reports
- » Submittal Log & Tracking of Response
- » RFI Log and Tracking of Response
- » Shop Drawing/Sample Log and Tracking of Response
- » CCO Log and Tracking of Response
- » Independent Cost Evaluation of all PCOs
- » Weekly Statements of Working Days
- » Record Drawing Markups
- » Labor Compliance Log
- » WPCP Compliance Log
- » Daily Inspection Reports
- » Daily Photographic Records
- » Documentation in accordance with LAPM
- » Bulletin Log and Tracking of Response
- » Quantity Backup Information
- » Quality Assurance Testing Documentation

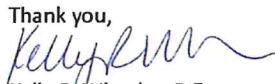
**POST-CONSTRUCTION PHASE DELIVERABLES**

- » Record drawings
- » Recommendation for final payment and acceptance
- » Statement of Final Quantities and/or Final Balancing Change Order
- » Notice of Completion
- » Electronic Copy of all Project Files in Caltrans standard recordkeeping guidelines.
- » Electronic copies of project documentation

**LABOR COMPLIANCE DELIVERABLES**

- » Complete set of certified payroll hardcopies, on-site interviews, and written evidence of apprentices
- » Complete list of outstanding documentation and written evidence of notifications & sanctions against the Contractor

We look forward to working with you on this project. If you have any questions or would like to discuss our qualifications further, please don't hesitate to call me at (805) 448-5619.

Thank you,  
  
Kelly R. Wheeler, P.E.

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

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed **\$90,070**.
- B. Extra Work required to complete the project may be authorized only if CONTRACTOR receives written approval by the COUNTY's designated representative as identified in Paragraph 1 of the Agreement at the same rate per unit as defined in **Attachment B1**. The total amount of this contingency fund is 10% of the agreement amount or **\$9,007**.
- C. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology 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 **Attachment B1** (Schedule of Fees). Invoices submitted for payment that are based upon **Attachment B1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
- D. **Monthly**, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an 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 **Attachment B1** 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.
- E. 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.
- F. CONTRACTOR shall comply with the California Labor Code, including but not limited to the payment of prevailing wage when required. The general prevailing wage rates determined by the Director of Industrial Relations, for the county or counties in which the work is to be done, are on file at the office of the Santa Barbara County Flood Control & Water Conservation District , 130 E. Victoria Street, Suite 200, Santa Barbara, CA 93101. Copies of these general prevailing wage rates shall be made available to any interested party on request. Changes, if any to the general prevailing wage rates will be available at the same location. The prevailing wage rates are also available from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov/dlsr/pwd>.
- G. CONTRACTOR shall comply with applicable federal labor standards, including without limitation, the Davis-Bacon Act (40 U.S.C. §§ 3141-3148), which requires that workers receive no less than the prevailing wages being paid for similar work in their locality, and its implementing regulations and policies (Title 29, Code of Federal Regulations CFR, Subtitle A, Parts 1, 3 and 5) issued by the Secretary of Labor. Prevailing wages are computed by the Federal Department of Labor and are issued in the form of federal wage decisions for each classification of work. In the event that there are different state and federal wage decisions for the same classification of work, the higher of the two wage decisions shall apply. CONTRACTOR shall maintain documentation that demonstrates compliance with hour and wage requirements of this part, which shall be made available to the COUNTY for review upon request.



ATTACHMENT B1

ESTIMATED RESOURCE REQUIREMENTS FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES ISLA VISTA TRASH CAPTURE PROJECT					
FLIPPIN ENGINEERING					
	Principal Construction Manager	Associate Construction Manager	Senior Construction Inspector	Office Engineer/Labor Compliance Officer	
<i>Notes &amp; Assumptions</i>					
*Based on construction duration of 20 Working Days, plus 15 working days by addendum					
*Average of half-time construction management required for the construction duration of 35 working days (plus pre & post).					
*Average of full-time (8 hours/day) inspection required for the construction duration; no overtime assumed.					
<b>A.1 PRE-CONSTRUCTION PHASE SERVICES</b>					
1.1	Contract Award Phase	2	2		
1.2	Submittal Review and Site Documentation	4	8	2	2
1.3	Prepare and run Pre Construction Conference	2	8	2	
	<b>Pre-Con Total Hours</b>	<b>8</b>	<b>18</b>	<b>4</b>	<b>2</b>
<b>A.2 CONSTRUCTION PHASE SERVICES</b>					
2.1	Construction Management	8	140		
2.2	Construction Inspection (20 working day estimate)			160	
2.2A	Construction Inspection (15 working day estimate)			120	
2.3	Labor Compliance Monitoring				40
	<b>Construction Phase Total Hours</b>	<b>8</b>	<b>140</b>	<b>280</b>	<b>40</b>
<b>A.3 POST CONSTRUCTION PHASE SERVICES</b>					
3.1	Punchlist	1	2	2	
3.2	Compile Construction Documentation	1	4		4
3.3	Review and Process Final Invoices		2		
3.4	Review Record Drawings		2	2	
	<b>Post-Con Total Hours</b>	<b>2</b>	<b>10</b>	<b>4</b>	<b>4</b>
	<b>PROJECT TOTAL HOURS</b>	<b>18</b>	<b>168</b>	<b>288</b>	<b>46</b>
	Hourly Rates \$	22.5.00 \$	185.00 \$	170.00 \$	130.00 \$
	Cost Subtotal \$	4,050.00 \$	31,080.00 \$	48,960.00 \$	5,980.00 \$
				<b>TOTAL COST \$</b>	<b>90,070.00</b>

**REQUEST FOR PROPOSALS FOR**  
**Construction Management and Inspection Services**  
**for Isla Vista Trash Capture Project**



# Filippin Engineering Rate Sheet

**EXHIBIT A**  
**FILIPPIN ENGINEERING, INC.**  
**BILLING RATES EFFECTIVE JULY 1, 2024 to JUNE 30, 2025**

**Engineering**

Engineering Technician	\$ 120.00
Senior Engineering Technician	\$ 135.00
Junior Engineer	\$ 170.00
Assistant Engineer	\$ 185.00
Associate Engineer	\$ 190.00
Senior Engineer	\$ 205.00
Principal Engineer	\$ 225.00

**General**

Technical/Clerical Support	\$ 120.00
Office Engineer	\$ 130.00
Senior Program Manager	\$ 205.00

**Construction Management**

Assistant Construction Manager	\$ 180.00
Associate Construction Manager	\$ 185.00
Senior Construction Manager	\$ 205.00
Principal Construction Manager	\$ 225.00
Senior Construction Inspector (PW)	\$ 170.00
Chief Inspector/Owner's Rep (PW)	\$ 175.00
(PW) Prevailing Wage	

Sub-Consultant	Cost + 10%
Reimbursable Expenses	Cost + 10%
Outside Consultant	Cost + 10%

Note 1: Reimbursable expenses include postage, shipping, outside plot and copy reproduction costs.

Note 2: On prevailing wage assignments, overtime rates for construction inspection = 1.3 X regular rate. Double time rates = 1.5 X regular rates. Overtime will not be performed unless authorized in writing by the client. Overtime is incurred as defined on the prevailing wage determination for construction inspector.

Note 3: Billing Rates subject to change for multiple year contracts in conjunction with labor increases, which will be calculated at an increase of proportionate percentage from Determination SC-23-63-2-22-1D for Building/Construction Inspector and Field Soils and Material Tester.



FILIPPIN ENGINEERING, INC. | 354-D S. FAIRVIEW AVENUE, GOLETA, CA 93117

**EXHIBIT C**  
**Indemnification and Insurance Requirements**  
**(For Professional Contractors)**

**INDEMNIFICATION**

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, his 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:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** 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.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Contractor's profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for 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 if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition 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 provide 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 affect 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** – Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
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.
  - ii. 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.

