

Contract No. \_\_\_\_\_

Riverside Co. Transportation

# ENGINEERING SERVICES AGREEMENT



for

<Project L1>

<Project L2>

between

**COUNTY OF RIVERSIDE • TRANSPORTATION DEPARTMENT**

and

<ENGINEER>

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**ENGINEERING SERVICES AGREEMENT**

COUNTY OF RIVERSIDE, hereinafter referred to as "COUNTY", and <ENGINEER>, hereinafter referred to as "ENGINEER", located at the following addressees:

County of Riverside • Transportation Department                   <ENGINEER>  
4080 Lemon Street, 8<sup>th</sup> Floor   <Address L1>  
Riverside, CA 92502   <Address L2>

do hereby agree as follows:

**ARTICLE I • DESIGNATED CONTACTS**

Coordination of ENGINEER, and COUNTY activities will be accomplished through an ENGINEERING PROJECT MANAGER, and a COUNTY PROJECT MANAGER.

The ENGINEERING PROJECT MANAGER for ENGINEER will be:

<PM>

The RESIDENT ENGINEER for ENGINEER will be:

<RE>

The COUNTY PROJECT MANAGER for COUNTY will be:

Hugh Smith, PE

**ARTICLE II • PROJECT DEFINITION**

ENGINEER shall furnish all technical and professional services including labor, material, equipment, transportation, supervision, and expertise to fully and adequately perform and complete the covenants set forth in Appendix A, Scope of Services and Appendix C Exhibits Required for Federal Funding, which is attached hereto and incorporated herein by reference. All services and deliverables associated with the performance and accomplishment of the covenants described in the Scope of Services and Exhibits Required for Federal Funding is hereinafter collectively referred to as the "PROJECT".

**ARTICLE III • COOPERATIVE AGENCIES**

**A. Lead Agency**

COUNTY is designated as the lead agency for PROJECT and is working cooperatively with other agencies in the effort to complete PROJECT.

**B. Cooperative Agencies**

The cooperating agencies are listed below and will hereinafter be collectively referred to as the "AGENCIES".

- 1 <AGENCY 1>
- 2 <AGENCY 2>
- 3 <AGENCY 3>
- 4 <AGENCY 4>

5 **C. COUNTY/AGENCIES Standards**

6 All deliverables shall be prepared in accordance with the current COUNTY and AGENCIES practices,  
7 regulations, policies, procedures, manuals and standards where applicable. All deliverables are subject to  
8 review and approval by COUNTY and AGENCIES.

9 **ARTICLE IV • CONDITIONS**

10 **A. Notifications**

11 All notices hereunder and communications regarding interpretation of the terms of this contract and changes  
12 thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested,  
13 postage prepaid and addressed to the attention of the ENGINEERING PROJECT MANAGER or the  
14 COUNTY PROJECT MANAGER at the respective addresses provided on page one of this contract.

15 **B. Assignment**

16 Without written consent of COUNTY, this agreement is not assignable by ENGINEER either in whole or in  
17 part.

18 **C. Subcontracts**

- 19 1. ENGINEER shall perform the services contemplated with resources available within its own organization.  
20 No portion of the services pertinent to this contract shall be subcontracted without written authorization by  
21 the COUNTY PROJECT MANAGER, except that which is expressly identified in this contract.
- 22 2. In the event ENGINEER subcontracts any portion of ENGINEER's duties under this agreement,  
23 ENGINEER shall require its subcontractors to comply with the terms of this contract in the same manner  
24 as required of ENGINEER including, but not limited to; indemnification of the COUNTY, requiring the  
25 same insurance of Subcontractors as required of ENGINEER, and having Subcontractor's insurance  
26 name the COUNTY as Additional Insured for each type of insurance where this Agreement requires  
27 ENGINEER'S insurance to name COUNTY as Additional Insured.

28 **D. Modifications**

- 29 1. This contract may be amended or modified only by mutual written agreement of the parties. No alteration

1 or variation of the terms of this contract will be valid unless made in writing and signed by the parties  
2 hereto and no oral understanding or agreement not incorporated herein, will be binding on any of the  
3 parties hereto.

- 4 2. There shall be no change in the ENGINEERING PROJECT MANAGER, the identified RESIDENT  
5 ENGINEER or key members of the PROJECT team without prior written approval by the COUNTY  
6 PROJECT MANAGER.

7 **E. COUNTY Directives**

8 ENGINEER shall receive contract directions and interpretations from the COUNTY PROJECT  
9 MANAGER.

10 **F. Liability**

- 11 1. ENGINEER has total responsibility for the accuracy and completeness of all documentation, reports,  
12 plans, calculations and estimates prepared by or on behalf of ENGINEER for this PROJECT and shall  
13 check all such material accordingly. The data and plans will be reviewed by COUNTY. The responsibility  
14 for accuracy and completeness of such items remains solely that of ENGINEER.
- 15 2. The plans, estimates, calculations, reports and other documents furnished in accordance with the Scope  
16 of Services shall meet the criteria for acceptance and be a product of neat appearance, well organized,  
17 technically and grammatically correct, checked and having the preparer and checker identified. The  
18 minimum standard of appearance, organization and contents shall be of similar types produced by  
19 COUNTY and AGENCIES.
- 20 3. The page identifying preparers of engineering reports, the title sheet for calculations and/or each sheet of  
21 plans prepared in the performance of this PROJECT, shall bear the professional seal, certificate number,  
22 registration classification, expiration date of the certificate, and signature of the professional(s)  
23 responsible for their preparation.
- 24 4. COUNTY agrees that reports, plans, drawings or other work products are for the exclusive use of  
25 COUNTY and may be used by COUNTY for the PROJECT described on the face hereof. Such plans,  
26 drawings or PROJECT work products may not be changed or used on a different project without the  
27 written authorization or approval by ENGINEER.
- 28 5. ENGINEER, and the agents and employees of ENGINEER, in the performance of this agreement, shall  
29 act in an independent capacity and not as officers, employees or agents of COUNTY.

**G. Indemnification and Defense**

1. The ENGINEER agrees to and shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Departments and Special Districts, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (hereinafter individually and collectively referred to as "Indemnitees") from all liability, including, but not limited to loss, suits, claims, demands, actions, or proceedings caused by any alleged or actual negligence, recklessness, willful misconduct, errors or omissions of ENGINEER, its directors, officers, partners, employees, agents or representatives or any person or organization for whom ENGINEER is responsible, arising out of or from the performance of services under this Agreement. To the extent a loss, suit, claim, demand, action, or proceeding is based on actual or alleged acts or omissions of ENGINEER which are not design professional services, ENGINEER shall indemnify Indemnitees whether or not ENGINEER is negligent.
2. The duty to indemnify includes loss, suits, claims, demands, actions, or proceedings caused by actual or alleged passive negligence of Indemnitees. The duty to indemnify does not include loss, suits, claims, demands, actions, or proceedings caused by actual active negligence of Indemnitees; however, any actual active negligence of Indemnitees will only affect the duty to indemnify for the specific act found to be active negligence, and will not preclude a duty to indemnify for any other act or omission of Indemnitees.
3. ENGINEER shall defend and pay, at its sole expense, all costs and fees, including but not limited to attorney fees, cost of investigation, and defense, in any loss, suits, claims, demands, actions, or proceedings based or alleged to be based on any act or omission of ENGINEER arising out of or from the performance of services under this Agreement. The duty to defend applies to any alleged or actual negligence, recklessness, willful misconduct, error or omission of ENGINEER. The duty to defend shall apply whether or not ENGINEER is a party to the lawsuit, and shall apply whether or not ENGINEER is directly liable to the plaintiffs in the lawsuit. The duty to defend applies even if Indemnitees are alleged or found to be actively negligent, unless the act or omission at issue was caused by the sole active negligence of Indemnitees.
4. The specified insurance limits required in this Agreement shall in no way limit or circumscribe ENGINEER'S obligations to indemnify and hold harmless Indemnitees from third party claims.
5. To the maximum extent allowed by law, the indemnity provisions are intended to be type I indemnity

1 provisions as defined by *MacDonald & Kruse, Inc. v. San Jose Steel Co.* (1972) 29 Cal.App. 3d 413. To  
2 the maximum extent allowed by law, the defense provisions are intended to provide for a defense as  
3 stated in *Crawford v. Weather Shield Mfg. Co.* (2008) 44 Cal.4th 541. In the event there is conflict  
4 between the indemnity and defense provisions and California Civil Code Sections 2782 and 2782.8, the  
5 indemnity and defense provisions shall be interpreted to comply with Civil Code sections 2782 and  
6 2782.8.

7 **H. Quality Control**

8 ENGINEER shall implement and maintain the following quality control procedures during the preparation of  
9 the reports, calculations, plans and other documents relating to PROJECT. ENGINEER shall have a quality  
10 control plan in effect during the entire time services are being performed under the contract. The plan shall  
11 establish a process whereby reports are reviewed and calculations are independently checked, plans  
12 checked, corrected and back-checked, and all job related correspondence and memoranda routed and  
13 received by affected persons and then bound in appropriate job files. The COUNTY PROJECT MANAGER  
14 may request evidence that the quality control plan is functional.

15 **I. Extra Work**

- 16 1. ENGINEER shall not perform Extra Work until receiving written authorization from the COUNTY  
17 PROJECT MANAGER.
- 18 2. In the event that COUNTY directs ENGINEER to provide services constituting Extra Work, COUNTY shall  
19 provide extra compensation to the ENGINEER. Allowable compensation for approved extra work will be  
20 based on the provisions of Appendix B, Budget, which is attached hereto and incorporated herein by  
21 reference.
- 22 3. A supplemental Agreement providing for such compensation for Extra Work shall be issued by COUNTY  
23 to ENGINEER. Such Supplemental Agreement shall be executed by ENGINEER and be approved by  
24 COUNTY.

25 **K. Disputes**

- 26 1. In the event ENGINEER considers any work demanded of him to be outside the requirements of the  
27 contract, or if he considers any order, instruction, or decision of COUNTY to be unfair, he shall promptly  
28 upon receipt of such order, instruction or decision, ask for a written confirmation of the same whereupon  
29 he shall proceed without delay to perform the work or to conform to the order, instruction, or decision; but

1 unless ENGINEER finds such order, instruction, or decision satisfactory, he shall within 20 days after  
2 receipt of same, file a written protest with COUNTY stating clearly and in detail his objections and reasons  
3 therefore. Except for such protests or objections as are made of record in the manner specified and  
4 within the time stated herein, and except for such instances where the basis of a protest could not  
5 reasonably have been foreseen by ENGINEER within the time limit specified for protest, ENGINEER  
6 hereby waives all grounds for protests or objections to the orders, instruction, or decisions of COUNTY  
7 and hereby agrees that, as to all matters not included in such protests, the orders, instructions and  
8 decisions of COUNTY will be limited to matters properly falling within COUNTY's authority.

- 9 2. Any controversy or claim arising out of or relating to this contract which cannot be resolved by mutual  
10 agreement may be settled by arbitration in accordance with the rules of the American Arbitration  
11 Association, provided that the parties mutually agree to submit to arbitration.
- 12 3. Neither the pendency of a dispute nor its consideration by arbitration will excuse ENGINEER from full and  
13 timely performance in accordance with the terms of the contract.

14 **L. Termination Without Cause**

- 15 1. COUNTY reserves the right to terminate this contract at COUNTY's discretion and without cause, upon  
16 thirty (30) calendar days written notice to ENGINEER.
- 17 2. In the event of termination of the Agreement, upon demand, ENGINEER shall deliver to COUNTY all field  
18 notes, surveys, studies, reports, plans, drawings, specifications, and all other materials and documents  
19 prepared or provided to ENGINEER in the performance of this Agreement. All such documents and  
20 materials shall be property of COUNTY.
- 21 3. In the event that the contract is terminated, ENGINEER is entitled to full payment for all services  
22 performed up to the time written notice of contract cancellation is received by ENGINEER. Payment shall  
23 be made for actual services performed in the performance of the PROJECT to date based upon Appendix  
24 A, Scope of Services, as contracted for, less payments made to date; plus any amount for authorized, but  
25 unpaid, extra work performed and costs incurred.

26 **M. Termination for Lack of Performance**

27 COUNTY may terminate this agreement and be relieved of the payment of any consideration to ENGINEER  
28 should ENGINEER fail to perform the covenants herein contained at the time and in the manner herein  
29 provided. In the event of such termination, COUNTY may proceed with the work in any manner deemed

proper by COUNTY. In such event, ENGINEER shall be paid only for work completed and delivered to COUNTY in a timely and successful manner.

**N. Insurance**

Without limiting or diminishing the ENGINEER'S obligation to indemnify or hold the COUNTY harmless, ENGINEER shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages and shall satisfy the following terms during the term of this Agreement, or for a term otherwise specified herein.

1. Workers' Compensation:

Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of the County of Riverside; and to provide a Borrowed Servant/Alternate Employer Endorsement.

2. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, completed operations, personal and advertising injury covering claims which may arise from or out of ENGINEER's actual or alleged acts or omissions during any work under this Agreement.

The policy shall name, by endorsement, the County of Riverside and all Agencies, Special Districts and Departments of the County of Riverside, their respective Directors, Officers, Board of Supervisors, employees, agents, elected and appointed officials ("County insureds") as Additional Insureds. The policy shall provide first party insurance coverage for the County insureds for any loss, suits, claims, demands, actions, or proceedings caused by any alleged or actual negligence, recklessness, willful misconduct, error or omission of ENGINEER, its directors, officers, partners, employees, agents or representatives or any person or organization for whom ENGINEER is responsible, arising out of or from the performance of services under this Agreement. Indemnity coverage under the policy does not include loss, suits, claims, demands, actions, or proceedings caused by actual active negligence of County insureds; however, any actual active negligence of County insureds will only affect the duty to indemnify for the specific act found to be active negligence, and will not preclude a duty to indemnify for any other act or omission of County insureds.

1 The policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If  
2 such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no  
3 less than two (2) times the occurrence limit.

4 The Policy shall provide a defense to the County insureds for any loss, suits, claims, demands, actions, or  
5 proceedings caused by an actual or alleged act or omission or ENGINEER, its directors, officers,  
6 partners, employees, agents or representatives or any person or organization for whom ENGINEER is  
7 responsible, arising out of or from the performance of services under this Agreement, whether or not  
8 ENGINEER is negligent or otherwise at fault. A defense is required if the loss, suits, claims, demands,  
9 actions, or proceedings are based on the active negligence of the County insureds unless the active  
10 negligence of the County insureds is the sole cause of the loss, suits, claims, demands, actions, or  
11 proceedings.

12 3. Vehicle Liability:

13 ENGINEER shall maintain Liability Insurance for all owned, non-owned or hired vehicles in an amount not  
14 less than \$1,000,000 per occurrence combined single limit. If ENGINEER'S vehicles or mobile  
15 equipment are not to be used in the performance of the obligations under this Agreement, ENGINEER  
16 shall maintain coverage for non-owned or hired vehicles in an amount not less than \$1,000,000 per  
17 occurrence combined single limit. Such non-owned or hired vehicle coverage may be included as a part  
18 of the Commercial General Liability policy. If such insurance contains a general aggregate limit, it shall  
19 apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall  
20 name by endorsement, all Agencies, Special Districts and Departments of the County of Riverside, their  
21 respective Directors, Officers, Board of Supervisors, employees, agents, elected or appointed officials  
22 and subcontractors as Additional Insureds.

23 4. Professional Liability:

24 ENGINEER shall maintain Professional Liability Insurance providing coverage for performance of work  
25 included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and  
26 \$2,000,000 annual aggregate. If ENGINEER'S Professional Liability Insurance is written on a claims-  
27 made basis rather than an occurrence basis, such insurance shall continue through the term of this  
28 Agreement. Upon termination of this Agreement or the expiration or cancellation of the claims made  
29 insurance policy ENGINEER shall purchase at his sole expense either 1) an Extended Reporting

1 Endorsement (also known as Tail Coverage); or, 2) Prior Dates Coverage from a new insurer with a  
2 retroactive date back to the date of, or prior to, the inception of this Agreement; or, 3) demonstrate  
3 through Certificates of Insurance that ENGINEER has maintained continuous coverage with the same or  
4 original insurer. Coverage provided under items; 1), 2) or 3) will continue for as long as allowed by law.

5 5. General Insurance Provisions - All lines:

6 a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of  
7 California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements  
8 are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a  
9 requirement for a particular insurer such waiver is only valid for that specific insurer and only for one  
10 policy term.

11 b. The ENGINEER must declare its self-insured retentions. If such self-insured retentions exceed  
12 \$500,000 per occurrence such retentions shall have the prior written consent of the County Risk  
13 Manager before the commencement of operations under this Agreement. Upon notification of self  
14 insured retentions which are deemed unacceptable to the COUNTY, at the election of the County's  
15 Risk Manager, ENGINEER shall either; 1) reduce or eliminate such self-insured retentions as respect  
16 to this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and  
17 related investigations, claims administration, defense costs and expenses.

18 c. The ENGINEER shall cause their insurance carrier(s) to furnish the COUNTY with 1) a properly  
19 executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting  
20 coverage as required herein; or, 2) if requested to do so orally or in writing by the County Risk  
21 Manager, provide original Certified copies of policies including all Endorsements and all attachments  
22 thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of  
23 insurance shall contain the covenant of the insurance carrier(s) shall provide no less than thirty (30)  
24 days written notice be given to the COUNTY prior to any material modification of such insurance or  
25 ten (10) days in the event of cancellation for nonpayment of premium be given to the COUNTY prior  
26 to any cancellation of such insurance. In the event of a material modification or cancellation of  
27 coverage, this Agreement shall terminate forthwith, unless the COUNTY receives, prior to such  
28 effective date, another properly executed original Certificate of Insurance and original copies of  
29 endorsements or certified original policies, including all endorsements and attachments thereto

1 evidencing coverages and the insurance required herein is in full force and effect. Individual(s)  
2 authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for  
3 each policy and the Certificate of Insurance. ENGINEER shall not commence operations until the  
4 COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of  
5 endorsements or policies of insurance including all endorsements and any and all other attachments  
6 as required in this Section. Submittal of certificates to County and review or approval of certificates  
7 by County does not relieve ENGINEER of its duties to provide insurance which fully complies with the  
8 terms stated above.

9 d. It is understood and agreed by the parties hereto and the ENGINEER'S insurance company(s), that  
10 the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary  
11 insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retentions or self-  
12 insured programs shall not be construed as excess.

13 e. If, during the term of this Agreement or any extension thereof, there is a material change in the scope  
14 of services or performance of work the Risk Manager of the County of Riverside reserves the right to  
15 adjust the types of insurance required under this Agreement and the monetary limits of liability for the  
16 insurance coverages required herein, if; in the County Risk Manager's reasonable judgment, the  
17 amount or type of insurance carried by the ENGINEER has become inadequate.

18 f. ENGINEER shall pass down the insurance obligations contained herein to all tiers of subcontractors  
19 working under this Agreement

20 **O. Conflict of Interest**

21 ENGINEER warrants, by execution of this contract, that no person or selling agency has been employed or  
22 retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage,  
23 brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling  
24 agencies maintained by ENGINEER for the purpose of securing business. For breach or violation of this  
25 warranty, COUNTY has the right to annul this contract without liability, pay only for the value of the work  
26 actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover,  
27 the full amount of such commission, percentage, brokerage, or contingent fee. ENGINEER may be  
28 requested to complete a Conflict of Interest Statement prior to, during, or after execution of this contract.

29 ENGINEER understands that as a condition of this contract ENGINEER agrees to complete the Conflict of

1 Interest Statement when requested to do so by COUNTY.

2 **P. Legal Compliance**

3 ENGINEER shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations,  
4 and the orders and decrees of any courts or administrative bodies or tribunals currently in effect and in any  
5 manner affecting the performance of this Agreement, including, without limitation, workers' compensation  
6 laws and licensing and regulations.

7 **Q. Nondiscrimination**

8 1. During the performance of this agreement, ENGINEER and its Subcontractors shall not unlawfully  
9 discriminate against any employee or applicant for employment because of race, religion, color, national  
10 origin, ancestry, physical handicap, medical condition, marital status, age or sex. ENGINEER and  
11 Subcontractor shall comply with the provisions of the Fair Employment and Housing Act (Government  
12 Code, Section 12900 et seq.) and applicable regulations promulgated thereunder (California  
13 Administrative Code, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment  
14 and Housing Commission implementing Government Code, Section 12900, set forth in Chapter 5 of  
15 Division 4 of Title 2 of the California Administrative Code are incorporated into this contract by reference  
16 and made a part hereof as if set forth in full. ENGINEER and its Subcontractors shall give written notice  
17 of their obligations under this clause to labor organizations with which they have a collective bargaining or  
18 other agreement.

19 2. ENGINEER will provide all information and reports required by the Regulations, or orders and instructions  
20 issued pursuant thereto, and will permit access to its books, records, accounts, other sources of  
21 information, and its facilities as may be determined by COUNTY or AGENCIES to be pertinent to  
22 ascertain compliance with such Regulations, orders and instructions. Where any information required of  
23 ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information,  
24 ENGINEER shall so certify to COUNTY, or the Federal Highway Administration as appropriate and shall  
25 set forth what efforts he has made to obtain the information.

26 3. In the event of ENGINEER's noncompliance with the nondiscrimination provisions of this contract,  
27 COUNTY shall impose such contract sanctions as it determines to be appropriate, including, but not  
28 limited to:

- 29 • Withholding of payments to ENGINEER under the contract until ENGINEER complies;

- Cancellation, termination, or suspension of the contract in whole or in part.

4. ENGINEER shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this contract.

5. ENGINEER shall comply with Title VI of the Civil Rights Act of 1964, as amended. Accordingly, 49 CFR 21 through Appendix H and 23 CFR 710.405(b) are applicable to this contract by reference.

**R. Labor Code and Prevailing Wages**

1. Certain Classifications of Labor under this contract may be subject to prevailing wage requirements.

2. Reference is made to Chapter 1, Part 7, Division 2 of the California Labor Code (commencing with Section 1720). By this reference said Chapter 1 is incorporated herein with like effect as if it were here set forth in full. The parties recognize that said Chapter 1 deals, among other things with discrimination, penalties and forfeitures, their disposition and enforcement, wages, working hours, and securing worker's compensation insurance and directly effect the method of prosecution of the work by ENGINEER and subject it under certain conditions to penalties and forfeitures. Execution of the Agreement by the parties constitutes their agreement to abide by said Chapter 1, their stipulation as to all matters which they are required to stipulate as to by the provisions of said Chapter 1, constitutes ENGINEER's certification that he is aware of the provisions of said Chapter 1 and will comply with them and further constitutes ENGINEER's certification as follows: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."

3. Pursuant to Section 1773 and 1775 of the Labor Code, the general prevailing wage rates, including the per diem wages applicable to the work, and for holiday and overtime work, including employer payments for health and welfare, pension, vacation, and similar purposes, in the county in which the work is to be done have been determined by the Director of the California Department of Industrial Relations. These wages are available from the California Department of Industrial Relations' Internet website at <http://www.dir.ca.gov>.

4. Should a portion of the project contain Federal funding, Federal minimum wages shall be used. The Federal minimum wage rates for this project as determined by the United States Secretary of Labor are available from the U.S Department of Labor, Employment Standards Administration, Wage and Hour

1 Division's Internet website at <http://www.access.gpo.gov/davisbacon>. If there is a difference between the  
2 minimum wage rates determined by the Secretary of Labor and the general prevailing wage rates  
3 determined by the Director of the California Department of Industrial Relations for similar classifications of  
4 labor, the ENGINEER and subcontractors shall pay not less than the higher wage rate. The Department  
5 will not accept lower State wage rates determinations. This includes "helper" (or other classifications  
6 based on hours of experience) or any other classification not appearing in the Federal wage  
7 determinations. Where Federal wage determinations do not contain the State wage rate determination  
8 otherwise available for use by the ENGINEER and subcontractors, the ENGINEER and subcontractors  
9 shall pay not less than the Federal minimum wage rate which most closely approximates the duties of the  
10 employees in question.

11 **S. Review and Inspection**

12 ENGINEER and any Subcontractors shall permit COUNTY and/or AGENCIES to review and inspect  
13 PROJECT activities including review and inspection on a daily basis.

14 **T. Record Retention / Audits**

- 15 1. ENGINEER, Subcontractors, and COUNTY shall maintain all books, documents, papers, accounting  
16 records, and other evidence pertaining to the performance of the contract, but not limited to, the costs of  
17 administering the contract. All parties shall make such materials available at their respective offices at all  
18 reasonable times during the contract period and for five years from the date of final payment under the  
19 contract.
- 20 2. COUNTY, Caltrans, the State Auditor General, FHWA or any duly authorized representative of the  
21 Federal Government shall have access to any books, records, and documents of ENGINEER that are  
22 pertinent to the contract for audits, examinations, excerpts, and transactions, and copies thereof shall be  
23 furnished if requested. (Government Code Section 105320)

24 **U. Ownership of Data**

25 Ownership and title to all reports, documents, plans, calculations, and estimates produced as part of this  
26 contract will automatically be vested in COUNTY and no further agreement will be necessary to transfer  
27 ownership to COUNTY.

28 **V. Confidentiality of Data**

- 29 1. All financial, statistical, personal, technical or other data and information which is designated confidential

1 by COUNTY or AGENCIES, and made available to ENGINEER in order to carry out this contract, shall be  
2 protected by ENGINEER from unauthorized use and disclosure.

3 2. Permission to disclose information on one occasion for a public hearing held by COUNTY or AGENCIES  
4 relating to the contract shall not authorize ENGINEER to further disclose such information or disseminate  
5 the same on any other occasion.

6 3. ENGINEER shall not comment publicly to the press or any other media regarding the contract, COUNTY  
7 or the AGENCIES actions on the same, except to COUNTY or AGENCIES staff, ENGINEER's own  
8 personnel involved in the performance of this contract, or at public hearings, or in response to questions  
9 from a Legislative committee.

10 4. Each subcontract shall contain provisions similar to the foregoing related to the confidentiality of data and  
11 nondisclosure of the same.

12 5. ENGINEER shall not issue any news release or public relations item of any nature whatsoever regarding  
13 work performed or to be performed under this contract without prior review of the contents thereof by  
14 COUNTY and receipt of COUNTY's written permission.

15 **W. Funding Requirements**

16 1. It is mutually understood between the parties that this contract may have been written before ascertaining  
17 the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties  
18 in order to avoid program and fiscal delays that would occur if the agreement were executed after that  
19 determination was made.

20 2. This agreement is valid and enforceable only if sufficient funds are made available to COUNTY for the  
21 purpose of this PROJECT. In addition, this agreement is subjected to any additional restrictions,  
22 limitations, conditions or any statute enacted by Congress, State Legislature or COUNTY that may affect  
23 the provisions, terms or funding of this contract in any manner.

24 3. It is mutually agreed that if sufficient funds for the program are not appropriated, this contract will be  
25 amended to reflect any reduction in funds.

26 **ARTICLE V • PERFORMANCE**

27 **A. Performance Period**

28 1. This Contract shall begin upon notification to proceed by the COUNTY PROJECT MANAGER.

29 2. ENGINEER is advised that any recommendation for contract award is not binding on COUNTY until the

1 proposed contract is approved by all AGENCIES, and the contract is fully executed and approved by  
2 COUNTY.

- 3 3. ENGINEER shall perform PROJECT services in accordance with the provisions set forth in Appendix A,  
4 Scope of Services, which is attached hereto and incorporated herein by reference. . All Covenants set  
5 forth in this agreement shall be completed by <Insert End Contract Date> unless extended by  
6 supplemental agreement.
- 7 4. Where ENGINEER is required to prepare and submit studies, reports, plans, etc., to COUNTY, these  
8 shall be submitted in draft as scheduled, and the opportunity provided for COUNTY to direct revisions,  
9 prior to final submission.
- 10 5. When COUNTY determines that ENGINEER has satisfactorily completed the PROJECT services,  
11 COUNTY shall give ENGINEER a written Notice of Final Acceptance. ENGINEER shall not incur any  
12 further costs hereunder unless so specified in the Notice of Final Acceptance. ENGINEER may request a  
13 Notice of Final Acceptance determination when, in its opinion, it has satisfactorily completed all covenants  
14 as stipulated in this Contract.
- 15 6. Time is of the essence in this agreement.

16 **B. Time Extensions**

- 17 1. Any delay in providing PROJECT services required by this contract occasioned by causes beyond the  
18 control and not due to the fault or negligence of ENGINEER, shall be the reason for granting an extension  
19 of time for the completion of the aforesaid work. When such delay occurs, ENGINEER shall promptly  
20 notify COUNTY in writing of the cause and of the extent of the delay whereupon COUNTY shall ascertain  
21 the facts and the extent of the delay and grant an extension of time for the completion of the work when,  
22 in COUNTY's judgement, their findings of fact justify such an extension of time.
- 23 2. COUNTY's findings of fact shall be final and conclusive to the parties hereto. However, this is not  
24 intended to deny ENGINEER it's civil legal remedies in the event of a dispute.

25 **C. Reporting Progress**

- 26 1. As part of the monthly invoice ENGINEER shall submit a progress report in accordance with COUNTY  
27 Engineering Services Progress Reporting Guidelines. Progress Reports shall indicate the progress  
28 achieved during the previous month in relation to the Scope of Services. Appendix A, which is attached  
29 hereto and incorporated herein by reference. Submission of such progress report by ENGINEER shall be

a condition precedent to receipt of payment from COUNTY for each monthly invoice submitted.

2. To ensure understanding and performance of the contract objectives, meetings between COUNTY, AGENCIES, and ENGINEER shall be held as often as deemed necessary. All work objectives, ENGINEER's work schedule, the terms of the contract and any other related issues will be discussed and/or resolved. ENGINEER shall keep minutes of meetings and distribute copies of minutes as appropriate.

**D. Evaluation of ENGINEER**

ENGINEER's performance will be evaluated by COUNTY for future reference.

**ARTICLE VI • COMPENSATION**

**A. Work Authorization**

ENGINEER shall not commence performance of any work or PROJECT services until so directed by the County Project Manager. No payment will be made for any work performed prior to approval of this contract.

**B. Basis of Compensation**

1. PROJECT services as provided under this agreement as described in the Appendix A, Scope of Services, shall be compensated for as defined in Appendix B, Budget, which is attached hereto and incorporated herein by reference. The total amount of the Contract is not to exceed \$ <contract amount> and reimbursement is to be made at actual billed cost for the following contractors with not to exceed amounts as shown:

|   |                          |          |           |                  |
|---|--------------------------|----------|-----------|------------------|
| • | <PRIME>                  |          | \$        | #,###,000        |
| • | SUB1 (structural)        |          | \$        | ###,000          |
| • | SUB2 (environmental)     |          | \$        | ###,000          |
| • | SUB3 (surveying)         |          | \$        | ###,000          |
| • | SUB4 (materials testing) |          | \$        | ###,000          |
|   | <b>Engineer's Budget</b> | <b>=</b> | <b>\$</b> | <b>#,###,000</b> |
|   | Contingency              | =        | \$        | ###,000          |
|   | <b>Total Budget</b>      | <b>=</b> | <b>\$</b> | <b>#,###,000</b> |

County shall hold contingency in reserve for unforeseen extra work that may arise during the performance

1 of this agreement. Contingency budget shall only be used at the discretion of the County Project  
2 Manager, and with written authorization of the County Project Manager. No additional compensation for  
3 Extra Work will be paid except upon the issuance of an Extra Work Order by COUNTY.

4 2. Prior authorization in writing by the COUNTY PROJECT MANAGER will be required before ENGINEER  
5 enters into any non-budgeted purchase order or subcontract exceeding \$1000 for supplies, equipment or  
6 consultant services. ENGINEER shall provide an evaluation of the necessity or desirability of incurring  
7 such costs.

8 3. For purchase of any item, service or consulting work not covered in ENGINEER's proposal and  
9 exceeding \$10,000, with prior authorization by the COUNTY PROJECT MANAGER, three competitive  
10 quotations shall be submitted with the request, or the absence of bidding shall be adequately justified.

11 4. Any equipment purchased as a result of this contract is subjected to the following: ENGINEER shall  
12 maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a  
13 useful life of at least two years and an acquisition cost of \$500 or more. If the purchased equipment  
14 needs replacement and is sold or traded in, COUNTY shall receive a proper refund or credit. At the  
15 conclusion of the contract or if the contract is terminated, ENGINEER may either keep the equipment and  
16 credit COUNTY in an amount equal to its fair market value or sell such equipment at the best price  
17 obtainable at a public or private sale in accordance with established COUNTY procedures and credit  
18 COUNTY in an amount equal to the sales price. If ENGINEER elects to keep the equipment, fair market  
19 value shall be determined, at ENGINEER's expense, on the basis of a competent independent appraisal  
20 of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable by COUNTY, and  
21 ENGINEER. If it is determined to sell the equipment, the terms and conditions of such sale must be  
22 approved in advance by COUNTY and AGENCIES.

23 5. The consideration to be paid ENGINEER, as provided herein, shall be in compensation for all of  
24 ENGINEER's expenses incurred in the performance hereof, including travel and per diem, unless  
25 otherwise expressly so provided.

26 6. ENGINEER agrees that the Contract Cost Principles and Procedures, CFR 48, Federal Acquisition  
27 Regulations Systems, Chapter 1, Part 31, shall be used to determine the allowability of individual items of  
28 cost and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements  
29 to State and Local Governments shall be used to determine the administrative requirements..

1 7. ENGINEER also agrees to comply with Federal procedures in accordance with Office of Management  
2 and Budget Circular A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local  
3 Governments.

4 8. In the event of errors or omissions in the plans for PROJECT, ENGINEER shall perform the necessary  
5 engineering services required to correct such errors and omissions without additional charge to COUNTY.

6 **C. Progress Payments**

7 1. ENGINEER shall submit monthly invoices for PROJECT Services in accordance with Appendix B,  
8 Budget, and in accordance with COUNTY Engineering Services Invoicing Procedures.

9 2. ENGINEER shall submit an invoice each month for PROJECT services performed during the preceding  
10 month. Invoices shall be submitted to the COUNTY PROJECT MANAGER and shall be included with a  
11 Progress Report covering the same period as the submitted invoice. Invoices shall show separate line  
12 item totals for each work order or extra work task.

13 3. Progress payments will be based on PROJECT services provided and actual costs incurred. Payments  
14 made prior to the completion of each phase will not exceed the amount allowed in ENGINEER's cost  
15 proposal for the completion of that phase and prior phases, unless a prior written agreement has been  
16 obtained.

17 4. Progress payments will be made as promptly as fiscal procedures will permit upon receipt by the  
18 COUNTY PROJECT MANAGER of itemized invoices.

19 5. Payment of the post construction Services will be withheld until all documentation is submitted in an  
20 acceptable format and COUNTY issues a Notice of Final Acceptance for PROJECT. The budgeted  
21 amount will be paid to ENGINEER after COUNTY has approved ENGINEER's final documents and  
22 estimate for PROJECT.

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**ARTICLE VII • APPROVALS**

**COUNTY** Approvals

RECOMMENDED FOR APPROVAL:

\_\_\_\_\_ Dated: \_\_\_\_\_

Juan C. Perez

Director of Transportation

APPROVED AS TO FORM:

PAMELA J. WALLS, COUNTY COUNSEL

\_\_\_\_\_ Dated: \_\_\_\_\_

By Deputy

APPROVAL BY THE BOARD OF SUPERVISORS

\_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_  
PRINTED NAME

Chairman, Riverside County Board of Supervisors

ATTEST:

\_\_\_\_\_ Dated: \_\_\_\_\_

KECIA HARPER-IHEM

Clerk of the Board (SEAL)

**ENGINEER** Approvals

ENGINEER:

\_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

ENGINEER:

\_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE