SAN BERNARDINO COUNTY

Contract Number

23-401

SAP Number

Project and Facilities Management Department

Department Contract Representative	Don Day
Telephone Number	(909) 387-5000
Consultant	David Evans and Associates, Inc.
Consultant Representative	Robert D. Vasquez
Telephone Number	909-481-5750
Contract Term	5 Years
Original Contract Amount	Not-to-exceed $225,000
Amendment Amount	
Total Contract Amount	Not-to-exceed $225,000
Cost Center	
Discipline Name	On Call Professional Services - Surveying

IT IS HEREBY AGREED AS FOLLOWS:

ARTICLE 1. THE PROJECT

1.1 Scope of Work

County does hereby engage Consultant to perform for the San Bernardino County under the terms and conditions in this Contract all Consultant services relative to Surveying per the County's Request for Proposal dated 12/1/2022, and Appendix A, Consultant Scope of Work (the Project). The Consultant Scope of Work shall be incorporated into this Contract in its entirety. (See Appendix A, Consultant Scope of Work.) Consultant shall not perform any services not specifically provided for in this Contract, including Appendix A, Consultant Scope of Work, without prior approval of County.

Projects under this Contract may include American Rescue Plan Act (ARPA) Coronavirus Local Fiscal Recovery Fund (CLFRF) Funds and may require compliance with ARPA CLFRF requirements (Appendix F, ARPA CLFRF Requirements) and assistance with meeting federal reporting requirements as more fully set forth in Article 3 of this Contract. Consultant's obligation to comply with the ARPA CLFRF requirements of this Contract, including but not limited to Appendix D, shall survive termination of this

Contract and/or any work order issued under this Contract. To the extent that the requirements of Appendix F conflict with any other provision in this Contract including all Appendices, Appendix D shall prevail.

1.2 Total Contract Amount

The total Contract amount as determined by County shall not exceed $200,000 per project with a total aggregate not-to-exceed amount of $225,000 through the life of this Contract, subject to any amendments.

1.3 Schedule of Services

The Consultant shall perform services customarily and typically rendered in the field of Surveying to affect all necessary and requested tasks as assigned, including but not limited to, those services as outlined in Article 3 of this Contract and shall duly perform those tasks as diligently as practical, to the reasonable and satisfactory expectation of the County and as agreed upon in a written purchase order issued by the County for each project.

1.4 Consultant's Fees

a. County agrees to pay Consultant, based on the fee schedule submitted with their proposal, made a part of this Contract as Appendix B, Consultant Rate Sheet, and the actual work performed as requested and approved by the County through a County issued purchase order. The total contract amount shall not exceed $200,000 per project with a total aggregate not-to-exceed amount of $225,000 for the term of this Contract. Consultant shall be paid based on Article 4 – Compensation of this Contract and the attached Fee Schedule (Appendix B, Consultant Rate Sheet).

b. If the County terminates this Contract at any time prior to the completion of any phase, the Adjusted Consultant's fee will be determined based on the actual work completed in that phase. If Consultant is working on multiple phases simultaneously, payment shall be made based on percentage of work completed on each individual phase.

c. If the scope of an issued work order is revised (either increased or decreased), the fee shall be revised by negotiation between the County and Consultant before the revised work is performed. No additional work will be paid for by the County without prior written authorization and the total fee mutually agreed upon in advance.

ARTICLE 2. DEFINITIONS

2.1 Appropriate Authorities - Any private, local, municipal, county, state, regional, or federal authority, public utility or other agency.

2.2 Approved Final Construction Cost Estimate – The estimate of construction costs approved by the County at the time the drawings, details, and specifications are completed.

2.3 Project and Facilities Management Department (or Department) - The Department of the County authorized by the Board to administer this Contract.

2.4 Board - Board of Supervisors of the San Bernardino County.

2.5 Chief of Project Management – Chief of Project Management of the Project and Facilities Management Department, San Bernardino County.

2.6 Construction Budget - Funding in place, for the complete construction of the Project, as established by the County.

2.7 Construction Contract – A contract prepared by the County and approved by the Board to perform the actual construction of the Project.

2.8 Construction Contract Documents - The Construction Contract and all Project documents designated in the Construction Contract as part of the Construction Contract, including working drawings, addenda, specifications, general conditions and special conditions of the Construction Contract.

2.9 Construction Documents – The drawings, specifications, estimates, and other data Consultant will provide for a Project as more fully described in Article 3 or an individual purchase/work order.

2.10 County - San Bernardino County, and its authorized representatives.

2.11 Department – Project and Facilities Management Department, San Bernardino County.

2.12 Director – Director of the Project and Facilities Management Department, San Bernardino County.

2.13 Project – The project includes all necessary design, construction, testing, inspection and management necessary to complete the project.

2.14 Project Construction Cost Estimate - The Consultant's dated, itemized estimate, including the Itemized Categories of Work, of the entire Project's current cost, escalated to the proposed mid-point of construction.

2.15 Project Manager - The County Employee, designated by the Director, responsible for the administration of this Contract.

2.16 Project Consultant - Person, designated by Consultant and approved by County, responsible for Consultant's work.

2.17 Consultant - Entity hired by County, based on competence and related experience, to perform work described herein.

2.18 Work Order – The document describing the scope of work Consultant must provide to County, the time to complete the scope of work, and the maximum compensation to be paid Consultant for the scope of work. The work order will generally be part of the purchase order authorizing Consultant to proceed with a specific scope of work.

ARTICLE 3. BASIC SERVICES OF CONSULTANT

3.1 See Appendix A – Consultant Scope of Work

3.2 In the event ARPA CLFRF funding is included on a Project, the County will be required to provide reporting regarding compliance with ARPA CLFRF requirements and will require Consultant's cooperation to meet this requirement. Consultant agrees to cooperate with County in meeting ARPA CLFRF reporting requirements and provide requested information within five (5) business days. Areas of reporting may be related to any requirement set forth in Appendix D to the Contract as well as labor compliance and general Work Order/project status.

ARTICLE 4. COMPENSATION

4.1 The County shall compensate the Consultant at a negotiated fee per project/task that is determined and authorized in advance of such work being performed based on a time and materials basis that will utilize the Consultant's Fee Schedule (Appendix B, Consultant Rate Sheet) and as presented on itemized invoices. Each Work Order shall identify specific work required, designate the method of compensation and shall be approved by the County.

4.2 Consultant shall include in the invoice a description of work accomplished per each individual project assigned, and itemize such work accomplished to include labor hours per classification of employees performing the work, travel costs, tests performed, incidental costs and reimbursable costs (per fee schedule as shown in Appendix B, Consultant Rate Sheet).

4.3 Maximum compensation under the Contract shall not exceed $200,000 per project with a total aggregate not-to-exceed amount of $225,000 for the term of the Contract.

4.4 **Consultant acknowledges that this Contract is for on-call services and that the Consultant serves at the pleasure of the County. Therefore, the Consultant is not guaranteed or implied to receive any minimum amount of work or compensation as a result of this Contract.**

4.5 Rent, utilities, word processing, in-house courier, local telephone charges, office supplies, support staff, local area travel within a 100 mile radius of the San Bernardino County's Government Center, meal expenses, lodging (unless preapproved by a Project and Facilities Management Department representative), meal expenses, time spent to provide necessary information for County audits or billing inquires, and all other expense items related to the provision of Consultant's services are not included in the fee negotiated per Section 4.1 and will not be reimbursed by County.

4.6 Consultant shall provide County itemized monthly invoices, in arrears, for services performed under this Contract within twenty (20) days of the end of the previous month. County will authorize payment to Consultant no later than sixty (60) calendar days after receipt of completed invoice that is acceptable and satisfactory to the County.

4.7 County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Consultant or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Agreement.

4.8 The County reserves the right to seek proposals from multiple firms for projects where legally required, including but not limited to the use of ARPA CLFRF funding or to meet other federal and/or state funding requirements. Firms may be selected based on lowest price, if legally required by the funding source.

ARTICLE 5. - PAYMENT BY ELECTRONIC FUND TRANSFER

Consultant shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Consultant's designated checking or other bank account. Consultant shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

ARTICLE 6. RECORDS

All records relating to the Consultant's personnel, Consultants, Extra Services and reimbursable expenses, pertaining to the Project shall be kept in a generally acceptable accounting format and shall be available to the County upon request and shall be maintained by Consultant for not less than three (3) years after the Notice of Completion is filed.

Consultant shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. County shall have the right upon reasonable notice and at reasonable hours of business to examine and inspect such records and books.

All records relating to the Consultant's personnel, consultants, subconsultants, Service/Scope of Work and expenses pertaining to this Agreement shall be kept in generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records

must comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy.

For any Project involving the use of ARPA CLFRF Funds, Consultant shall comply with all requirements set forth in Appendix D.

ARTICLE 7. COUNTY RESPONSIBILITIES

The County is responsible to the extent reasonably possible to provide/perform the following:

7.1 Project Budget and information relating to facility requirements, and Project scheduling.

7.2 Access to sites for the purpose of gathering or collecting date, performing tests, or inspections.

7.3 Soils investigation, topographic survey and recommendations, as deemed necessary by County.

7.4 Existing maps, boundaries, facility plans, operational or previous project reports, blank forms, and any other available documents or items required by Consultant for the satisfactory performance under this Contract that may be available.

7.5 Reproduction of final drawings and specifications for bidding.

7.6 Notify the Consultant in writing of County procedures required and name the County representative authorized to act in its behalf. County shall review documents submitted by the Consultant and shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the Project.

7.7 Nothing in this Contract nor any act or failure to act on the part of the County shall be construed as a waiver of claim by County for any defects or deficiencies in the plans, reports or interpretative conclusions drawn by tests or observations conducted and performed by Consultant. Consultant is responsible to determine the accuracy of all documents used and incorporated into its work.

ARTICLE 8. DOCUMENTS

All plans, specifications, data, products, graphics, computer programs, reports and other documents prepared by Consultant pursuant to this Contract shall become and remain the property of County. All such items shall be delivered to the County upon completion of the work under the Contract or termination of the Contract. Consultant and Owner shall retain reproducible copies of all documents for not less than three (3) years after the Notice of Completion is filed.

All artwork, proofs and/or negatives in either print or digital format for a project are the property of the San Bernardino County. These items must be returned to the San Bernardino County within ten (10) days, upon written notification to the Consultant. In the event of a failure to return the documents, the County is entitled to pursue any available legal remedies. In addition, the Consultant will be barred from all future solicitations, for a period of at least six (6) months.

County shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans specifications, procedures, systems, and any other materials or properties developed under this Contract including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of this Contract shall acknowledge the San Bernardino County as the funding agency and Consultant as the creator of the materials. No such materials, or properties produced in whole or in part under this Contract shall be subject to private use, copyright or patent right by Consultant in the United State or in any other country without the express written consent of County. Copies of all educational and training materials, curricula, audio/visual aids, printed material, and periodicals, assembled pursuant to this Agreement must be filed with the County prior to publication.

For any Project involving the use of ARPA CLFRF Funds, Consultant shall comply with all document requirements set forth in Appendix D.

ARTICLE 9. TERMINATION OR SUSPENSION OF CONTRACT

9.1 County reserves and has the right and privilege of canceling, terminating, suspending or abandoning the Contract or the execution of any work in connection with this Contract at any time upon written notice to the Consultant. The Director of the Project and Facilities Management Department is authorized to exercise the County's rights with respect to any termination or suspension of this Contract. The Consultant may terminate this Contract upon 30 days written notice to County, should the County substantially fail to perform in accordance with its responsibilities. Upon receipt or giving of such notice of termination, Consultant shall provide no further services to County without specific request or authorization of the County.

9.2 In the event of any termination, all finished and unfinished design and research documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Consultant shall, at the option of the County, become the property of the County.

9.3 In the event of any termination, County shall pay to Consultant as full payment for all services performed and all expenses incurred under this Contract the sum due and payable, as determined by County. In ascertaining the services actually rendered hereunder up to the date of termination of this Contract, consideration shall be given to completed work and work in progress, whether delivered to County or in possession of Consultant.

9.4 If, after payment of the amount required to be paid under this Article 9, Termination or Suspension of Contract, following the termination of the Contract, County should decide to complete the original Project, (or substantially the same Project), County shall have the right of utilization of any original tracings, drawings, calculations, specifications, estimates and other documents and research studies prepared under this Contract by Consultant who shall make them available to County.

9.5 Consultant's obligation to comply with the ARPA CLFRF requirements of this Contract, including but not limited to Appendix D, shall survive termination of this Contract and/or any work order issued under this Contract. To the extent that the requirements of Appendix D conflict with any other provision in this Contract including all Appendices, Appendix D shall prevail.

ARTICLE 10. INDEMNIFICATION

For "design professional services" as defined in Civil Code section 2782.8, the following indemnification paragraph applies: "**Consultant shall defend and indemnify County for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.**"

For all other consultant services, the following indemnification paragraph applies: "The Consultant agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The Consultant's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782."

ARTICLE 11. INSURANCE

11.1 Insurance: The Consultant agrees to provide insurance set forth in accordance with the requirements herein. If the Consultant uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Consultant agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Consultant shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

a. **Workers' Compensation/Employers Liability -** A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with $250,000 limits covering all persons including volunteers providing services on behalf of the Consultant and all risks to such persons under this contract.

If Consultant has no employees, it may certify or warrant to the County that is does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Consultants that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

b. **Commercial/General Liability Insurance –** The Consultant shall carry General Liability Insurance covering all operations performed by or on behalf of the Consultant providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars ($1,000,000), per occurrence. The policy coverage shall include:

(a) Premises operations and mobile equipment.
(b) Products and completed operations.
(c) Broad form property damage (including completed operations).
(d) Explosion, collapse and underground hazards.
(e) Personal injury
(f) Contractual liability.
(g) $2,000,000 general aggregate limit.

c. **Automobile Liability Insurance** - Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars ($1,000,000) for bodily injury and property damage, per occurrence.

If the Consultant is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars ($2,000,000) for bodily injury and property damage per occurrence.

If the Consultant owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

d. **Professional Liability** – Professional Liability Insurance with limits of not less than one million ($1,000,000) per claim or occurrence and two million ($2,000,000) aggregate limits
or
Errors and Omissions Liability Insurance with limits of not less than one million ($1,000,000) and two million ($2,000,000) aggregate limits
or
Directors and Officers Insurance coverage with limits of not less than one million ($1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

e. **Umbrella Liability Insurance** - An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

f. ***Environmental Contracts - In addition to the Basic Requirements/Specifications for all Contracts, any contract that involves the use, handling, transportation, storage, abatement, containment or testing of any substance that is potentially toxic or hazardous to the environment, including but not limited to, those listed as hazardous by the United States Department of Transportation or the CAL OSHA "Director's list of Hazardous Substances" or listed as radioactive by the Nuclear Regulatory Commission, shall have the following additional requirements:***

a. Environmental Liability Insurance with a combined single limit of not less than five million ($5,000,000) per claim or occurrence and a separate aggregate for the contract project. The required additional insured endorsement shall protect the County without any restrictions.

b. If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

11.2 Additional Insured - All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

11.3 Waiver of Subrogation Rights - The Consultant shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, consultants and subconsultants. All general or auto liability insurance coverage provided shall not prohibit the Consultant and Consultant's employees or agents from waiving the right of subrogation prior to a loss or claim. The Consultant hereby waives all rights of subrogation against the County.

11.4 Policies Primary and Non-Contributory - All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

11.5 Severability of Interests - The Consultant agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Consultant and the County or between the County and any other insured or additional insured under the policy.

11.6 Proof of Coverage - The Consultant shall furnish Certificates of Insurance to the County Department administering the contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Consultant shall maintain such insurance from the time Consultant commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Consultant shall furnish a

copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

11.7 Acceptability of Insurance Carrier - 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 "Best" Insurance Guide rating of "A- VII".

11.8 Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of $10,000 shall be declared to and approved by Risk Management.

11.9 Failure to Procure Coverage - In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Consultant or County payments to the Consultant will be reduced to pay for County purchased insurance.

11.10 Insurance Review - Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

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

Any failure, actual or alleged, on the part of the 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 the County.

ARTICLE 12. SUCCESSORS AND ASSIGNS

12.1 This Contract shall be binding upon County and Consultant and their respective successors and assigns.

12.2 Neither the performance of this Contract, nor any part thereof, nor any monies due or to become due thereunder may be assigned by Consultant without the prior written consent and approval of County.

12.3 Death or Incapacity: If the Consultant transacts business as an individual, his death or incapacity shall automatically terminate this Contract as of the date of such event, and neither he nor his estate shall have any further right to perform hereunder, and County shall pay him or his estate the compensation payable under Article 4, Compensation, for any services rendered prior to such termination not heretofore paid, reduced by the amount of additional costs which will be incurred by County by reason of such termination. If there be more than one Consultant and any one of them die or become incapacitated and the others continue to render the services covered herein, the County will make payment to those continuing as though there had been no such death or incapacity and the County will not be obliged to take any account of the person who died or became incapacitated or to make any payments to such person or his estate. The provision shall apply in the event of progressive or simultaneous occasions of death or incapacity among any group of persons named as Consultant herein, and if death or incapacity befalls the last one of such group before this Contract is fully performed, then the rights shall be as if there had been only one Consultant.

ARTICLE 13. NOTICES

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally, or by facsimile, or sent by prepaid, first-class mail. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

Consultant's address:	David Evans and Associates, Inc. 4141 Inland Empire Boulevard, Ste. 250 Ontario, CA 91764
County's address:	Project and Facilities Management Department 385 North Arrowhead Avenue, Third Floor San Bernardino, CA 92415-0184

ARTICLE 14. FEDERAL GRANTS, STATE GRANTS, PARTICIPATION

All records pertaining to services provided by Consultant under this Contract shall be available for examination and audit by County, Federal and State representatives for a period of three years after filing of the Notice of Completion or until all pending County, State and Federal audits are completed or until all pending litigation is completed, whichever is later. All records pertaining to services provided by Consultant under this Contract shall be retained locally and made available upon the County's reasonable advance written notice to Consultant or turned over to County. Consultant shall comply with federal and/or state requirements as to work hours, overtime compensation, nondiscrimination, and contingent fees. For any Project involving the use of ARPA CLFRF Funds, Consultant shall comply with all requirements set forth in Appendix D.

ARTICLE 15. EMPLOYMENT DISCRIMINATION

During the term of the Contract, Consultant shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Consultant shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted. For any Project involving the use of ARPA CLFRF Funds, Consultant shall comply with all requirements set forth in Appendix D.

ARTICLE 16. WAIVER

Consultant shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by Consultant, and County may withhold any payments to Consultant for the purpose of set-off until such time as the exact amount of damages due County from Consultant is determined. The waiver by either party or any breach to this Contract shall not constitute a waiver as to any succeeding breach.

ARTICLE 17. REPRESENTATIVES OF COUNTY

The Director of the Project and Facilities Management Department, or his/her designee, shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination,

suspension or assignment of this Contract. The Director, or his/her designee, shall be the final authority in all matters pertaining to the Scope of Work by Consultant including reduction in the scope of work and reduction in the corresponding cost. The San Bernardino County Board of Supervisors must approve all amendments to this Contract.

ARTICLE 18. ERRORS, OMISSIONS AND/OR CONFLICTS

Consultant shall be responsible for the integrity of all design and research studies prepared or approved by the Consultant and should County suffer damages due to errors, omissions and/or conflicts within the Contract Documents, the Consultant shall be responsible to County for costs of all such damages.

ARTICLE 19. INDEPENDENT CONSULTANT

In the performance of the Agreement, Consultant, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

ARTICLE 20. FORMER COUNTY OFFICIALS

Consultant agrees to provide or has already provided information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Consultant. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Consultant. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, Chief Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

ARTICLE 21. MATERIAL MISSTATEMENT/ MISREPRESENTATION

If during the course of the administration of this Contract, the County determines that the Consultant has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

ARTICLE 22. CONFLICT OF INTEREST

Consultant shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subconsultants and the County. Consultant shall make a reasonable effort to prevent employees, officers, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Consultant's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

ARTICLE 23. IMPROPER CONSIDERATION

Consultant shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration, as described in the preceding paragraph, was offered to any officer, employee or agent of the County. This prohibition shall apply to any amendment, extension evaluation process once a contract has been awarded.

Consultant shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Consultant. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

ARTICLE 24. VENUE

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claim concerning this Contract, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

ARTICLE 25. PREVAILING WAGE LAWS

By its execution of this Contract, Consultant certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Section 1720 of the California Labor Code states in part: "For purposes of this paragraph, 'construction' includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work." If the Services/Scope of Work are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant will also adhere to any other applicable requirements, including but not limited to, those regarding the employment of apprentices, travel and subsistence pay, retention and inspection of payroll records, workers compensation and forfeiture of penalties prescribed in the Labor Code for violations. Consultant shall defend, indemnify and hold the County, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with Prevailing Wage Laws. See Appendix "C" for additional information and requirements regarding Prevailing Wage Laws.

ARTICLE 26. ATTORNEY'S FEES AND COSTS

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under the Indemnification and Insurance Requirements section.

ARTICLE 27. LAW

This Contract shall be construed and interpreted in accordance with the laws of the State of California.

ARTICLE 28. RIGHT TO MONITOR AND AUDIT

1. **Right to Monitor**
   The County, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Consultant in the delivery of services provided under this Agreement. Consultant shall give full cooperation, in any auditing or monitoring conducted. Consultant shall cooperate with the County in the implementation, monitoring and evaluation of this Agreement and comply with any and all reporting requirements established by the County.

   In the event the County determines that Consultant's performance of its duties or other terms of this Agreement are deficient in any manner, County will notify Consultant of such deficiency in writing or orally, provided written confirmation is given five (5) days thereafter. Consultant shall remedy any deficiency within forty-eight (48) hours of such notification, or County at its option, may terminate this Agreement immediately upon written notice, or remedy deficiency and off-set the cost thereof from any amounts due the Consultant under this Agreement or otherwise.

2. **Availability of Records**
   All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under the Agreement or until all pending County, State and Federal audits are completed, whichever is later.

ARTICLE 29. RESERVED

ARTICLE 30. DAMAGE TO COUNTY PROPERTY

Consultant shall repair, or cause to be repaired, at its own cost, all damage to County vehicles, facilities, buildings or grounds cause by the willful or negligent acts of Consultant or its employees or agents. Such repairs shall be made immediately after Consultant becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Consultant fails to make timely repairs, the County may make any necessary repairs. The Consultant, as determined by the County, shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Consultant from the County.

ARTICLE 31. IRAN CONTRACTING ACT

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars ($1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Consultant certifies that at the time the Contract is signed, the Consultant signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Consultants are cautioned that making a false certification may subject the Consultant to civil penalties, termination of existing agreement, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205. **Consultant agrees that signing the Contract shall constitute signature of this Certification.**

ARTICLE 32. CALIFORNIA CONSUMER PRIVACY ACT

To the extent applicable, if Contractor is a business that collects the personal information of a consumer(s) in performing Services pursuant to this Contract, Contractor must comply with the provisions of the California

Consumer Privacy Act (CCPA). (Cal. Civil Code §§1798.100, et seq.). For purposes of this provision, "business," "consumer," and "personal information" shall have the same meanings as set forth at Civil Code section 1798.140. Contractor must contact the County immediately upon receipt of any request by a consumer submitted pursuant to the CCPA that requires any action on the part of the County, including but not limited to, providing a list of disclosures or deleting personal information. Contractor must not sell, market or otherwise disclose personal information of a consumer provided by the County unless specifically authorized pursuant to terms of this Contract. Contractor must immediately provide to the County any notice provided by a consumer to Contractor pursuant to Civil Code section 1798.150(b) alleging a violation of the CCPA, that involves personal information received or maintained pursuant to this Contract. Contractor must immediately notify the County if it receives a notice of violation from the California Attorney General pursuant to Civil Code section 1798.155(b).

ARTICLE 33. EXECUTIVE ORDER N-6-22 RUSSIA SANCTIONS

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine (https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions), as well as any sanctions imposed under state law (https://www.dgs.ca.gov/OLS/Ukraine-Russia). The EO directs state agencies and their contractors (including by agreement or receipt of a grant) to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should it be determined that Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. Contractor shall be provided advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the County.

ARTICLE 34. MISCELLANEOUS PROVISIONS

34.1 The Consultant will designate an individual to serve as the primary point of contact for the Agreement. Consultant or designee must respond to County inquires within two (2) business days. Consultant shall not change the primary contact without written notification and acceptance of the County. Consultant will also designate a back-up point of contact in the event the primary contact is not available.

34.2 Consultant shall notify the County, in writing, of any change in mailing address and/or physical location within ten (10) calendar days of the change, and shall immediately notify County of changes in telephone or fax numbers.

34.3 Consultant agrees not to enter into any subcontracting agreements for work contemplated under the Contract without first obtaining written approval from the Director of the Project and Facilities Management Department, or his or her designee. Any subcontracting shall be subject to the same contract provisions as Consultant. Consultant shall be fully responsible for the performance and payments of any subconsultant.

34.4 Consultant shall notify County of any continuing vacancies and any positions that become vacant during the term of this Contract that will result in reduction of services to be provided under this Contract. Upon notice of vacancies, Consultant shall apprise County of the steps being taken to provide the services and to fill the position as expeditiously as possible. Vacancies and associated problems shall be reported to County on each periodically required report for the duration of said vacancies and/or problems.

34.5 No waiver of any of the provisions of the Contract shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under the Contract shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.

34.6 Any alterations, variations, modifications, or waivers of provisions of the Contract, unless specifically allowed in the Contract, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this Contract. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.

34.7 If any provision of the Contract is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the Contract shall not be affected.

34.8 Consultant shall ensure that it has all necessary licenses, permits and/or certifications required by Federal, State, County and municipal laws, ordinances, rules and regulations. The Consultant shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Consultant will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain required licenses, permits and/or certifications may result in immediate termination of this Contract. Professional Architects and Engineers shall be duly registered in the State of California.

34.9 The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

34.10 In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Consultant to use recycled paper for any printed or photocopied material created as a result of this Contract. Consultant is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the County in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Consultant must be able to annually report the County's environmentally preferable purchases. Consultants must also be able to report on environmentally preferable goods used in the provision of Services to the County, utilizing a County approved form.

34.11 No news releases, advertisements, public announcements or photographs arising out of this Contract or Consultant's relationship with the County may be made or used without prior written approval of the County.

34.12 In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this Agreement, the Consultant shall notify the County within one (1) working day, in writing <u>and</u> by telephone.

34.13 Consultant agrees to comply with the provisions of Executive Orders, 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment Practice Act, Equal Employment Opportunity, and other applicable Federal, State, and County laws, regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

34.14 Consultant shall comply with all applicable laws, statutes, ordinances, administrative orders, court orders, rules or regulations relating to its duties, obligations and performance under the terms of the Contract. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

34.15 Consultant shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the services performed pursuant to this Contract.

34.16 Time is of the essence in performance of this Contract and of each of its provisions.

34.17 Consultant acknowledges and agrees that it will not submit a bid, or enter into any agreement with a third party, for the construction of the Project. Consultant agrees not to affiliate with, or receive financial consideration from, any third party in connection with this Project, except as specifically authorized under this Contract.

34.18 In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Agreement, the Consultant agrees that the Consultant and the Consultant's employees, while performing service for the County, on County property, or while using County equipment:

a. Shall not be in any way impaired because of being under the influence of alcohol or a drug.
b. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.
c. Shall not sell, offer, or provide alcohol or a drug to another person.

This shall not be applicable to a Consultant or Consultant's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Consultant shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this Agreement and any other Agreement the Consultant has with the County, if the Consultant or Consultant's employees are determined by the County not to be in compliance with above.

34.19 The Consultant certifies that neither it nor its principals or subcontracts is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency or on the Federal Government Excluded Parties List System (www.epls.gov). Consultant agrees that signing this Contract shall constitute signature of this Certification.

34.20 This is not an exclusive Contract. The County reserves the right to enter into a contract with other consultants for the same or similar services. The County does not guarantee or represent that the Consultant will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

34.21 Consultant shall make all reasonable efforts to ensure that no County officer or employee, whose positioning the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Consultant or officer or employee of the Consultant.

34.22 Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

34.23 In the event of any dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

ARTICLE 35. TERM

The Contract is effective as of May 23, 2023 and expires on May 22, 2028 or closeout/completion of the last project/work order/task assigned to Consultant within said term, whichever is later, but may be terminated earlier in accordance with the provisions of this Contract.

ARTICLE 36. CONCLUSION

36.1 This Contract, consisting of 36 pages, Appendixes A, B, C, and D is the full and complete document describing services to be rendered by Consultant to County including all covenants, conditions and benefits.

36.2 The signatures of the Parties affixed to this Contract affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.

36.3 This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Contract. The parties shall be entitled to sign and transmit an electronic signature of this Contract (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Contract upon request.

IN WITNESS WHEREOF, the Board of Supervisors of San Bernardino County has caused this Contract to be subscribed to by the Clerk thereof, and Consultant has caused this Contract to be subscribed in its behalf by its duly authorized officers on their behalf.

SAN BERNARDINO COUNTY

► Dawn Rowe

Dawn Rowe, Chair, Board of Supervisors

Dated: MAY 23 2023

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
San Bernardino County

By _____ Deputy

BOARD OF SUPERVISORS SAN BERNARDINO COUNTY CA

David Evans and Associates, Inc.
(Print or type name of corporation, company, contractor, etc.)

By ► Jeff Whitson
Jeff Whitson (May 12, 2023 10:55 PDT)
(Authorized signature - sign in blue ink)

Name Jeff Whitson
(Print or type name of person signing contract)

Title Vice President
(Print or Type)

Dated: May 12, 2023

Address 4141 Inland Empire Boulevard, Ste. 250
Ontario, CA 91764

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► Katherine Hardy (May 12, 2023 11:30 PDT)	►	► Don Day (May 12, 2023 14:06 PDT)
Katherine Hardy, County Counsel	Robert Gilliam, Chief of Project Management, Project and Facilities Management Department	Don Day, Director, Project and Facilities Management Department
Date May 12, 2023	Date May 12, 2023	Date May 12, 2023

Appendix A
Consultant Scope of Work

Surveying Services

The following are the services that will generally be required of Consultant for each Project that is assigned to Consultant under this On-Call Contract. The County reserves the right to revise the Scope of Work for specific Projects in the Work Order issued to Consultant for a specific Project.

The Consultant will perform services, provide resources and materials customarily and typically rendered to accomplish all such tasks necessary as assigned including, but not limited to, the following:

- Property boundary surveying.
- Topography mapping for various design projects.
- Right-of-way surveying.
- Construction surveying, including, slope staking, roadway surfacing, ditches, structures, curbs, gutters, sidewalks, walls, site utilities and reference points for County construction projects.
- Aerial mapping.

Appendix B
Contractor Rate Sheet

DAVID EVANS
AND ASSOCIATES INC

Schedule of Hourly Billing Rates (for San Bernardino County On-Call Contract)
Rates Effective through December 30, 2028

Office Staff:

	1/23	1/24	1/25	1/26	1/27	1/28
Survey Manager	260	269	279	288	298	309
Project Manager	210	217	225	233	241	249
Project Surveyor	195	202	209	216	224	232
Survey Analyst	170	176	182	188	195	202
Survey Technician	150	155	161	166	172	178
Project Coordinator	130	135	139	144	149	154

Note: Authorized overtime will be charged at 1.5 times the above rate.

Field Staff:

1 Person Field Crew *	205	212	220	227	235	243
2 Person Field Crew *	350	362	375	388	402	416

** David Evans and Associates, Inc. is signatory to the International Union of Operating Engineers Local 12. Field surveyors are therefore paid prevailing wage rates for all work performed.*

Reimbursable Expenses:

1. *Deleted*
2. *3D Laser Scanner equipment is not included in our overhead rate and will be invoiced at an additional separate daily rate. The current daily audited rate is $655/ day.*
3. *3D Mobile Laser Scanner equipment is not included in our overhead rate and will be invoiced at an additional separate daily rate. The current daily audited rate is $5,000/ day.*
4. *Deleted*
5. *Deleted*
6. *Deleted*

4141 E. Inland Empire Boulevard, Suite 250 Ontario California 91764 Telephone: 909.481.5750 Facsimile: 909.481.5757

Appendix C
PREVAILING WAGE REQUIREMENTS

A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements:

1. **Determination of Prevailing Rates:**
   Pursuant to Labor Code sections 1770, et seq., the County has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the County, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at www.dir.ca.gov. The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the job site, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.
2. **Payment of Prevailing Rates**
   Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.
3. **Prevailing Rate Penalty**
   The Contractor shall, as a penalty, forfeit two hundred dollars ($200.00) to the County for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.
4. **Ineligible Contractors:**
   Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at http://www.dir.ca.gov/Public-Works/PublicWorks.html. Any contract entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the County. The Contractor shall be responsible for the payment of wages to workers as a debarred subcontractor who has been allowed to work on the Scope of Work.
5. **Payroll Records:**
   a. Pursuant to California Labor Code section 1776, the Contractor and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:
      i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;
      ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the County, the Division of Labor Standards Enforcement of the DIR;
      iii. A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;

iv. The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and

v. Copies provided to the public, by the County or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated. The Contractor shall inform the County of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.

b. The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to the County, forfeit one-hundred dollars ($100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Contractor.

6. **Limits on Hours of Work**:
Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

7. **Penalty for Excess Hours:**
The Contractor shall pay to the County a penalty of twenty-five dollars ($25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8. **Senate Bill 854 (Chapter 28, Statutes of 2014) and Senate Bill 96 (Chapter 28, Statutes of 2017) Requirements:**

a. Contractor shall comply with Senate Bill 854 and Senate Bill 96. The requirements include, but are not limited to, the following:

i. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).

ii. No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project unless registered with the DIR pursuant to Labor Code section 1725.5.

iii. This project is subject to compliance monitoring and enforcement by the DIR.

iv. As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.

v. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all public works projects.

1) The certified payroll must be submitted at least monthly to the Labor Commissioner.

2) The County reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner.

3) The certified payroll records must be in a format prescribed by the Labor Commissioner.

vi. Registration with the DIR and the submission of certified payroll records to the Labor Commissioner are not required if the public works project is $25,000 or less when the project is for construction, alteration, demolition, installation or repair work, or if the public works project is $15,000 or less when the project is for maintenance work.

b. Labor Code section 1725.5 states the following:

"A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars ($400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars ($2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work."

c. Labor Code section 1771.1 states the following:

"(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.
(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.
(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:
(1) The subcontractor is registered prior to the bid opening.
(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.
(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.
(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.
(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.
(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.
(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars ($100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars ($8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.
(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars ($100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars ($10,000).
(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.
(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnity or otherwise be liable for any penalties pursuant to paragraph (1).
(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.
(j)(1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.
(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:
(A) Manual delivery of the order to the contractor or subcontractor personally.
(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at one of the following:
(i) The address of the contractor or subcontractor on file with either the Secretary of State or the Contractors' State License Board.
(ii) If the contractor or subcontractor has no address on file with the Secretary of State or the Contractors' State License Board, the address of the site of the public work.
(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.
(4) Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner pursuant to this subdivision shall be paid at his or her regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days.
(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars ($10,000), or both.
(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.
(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.
(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work."

d. Labor Code section 1771.4 states the following:

"a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016."

B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS

1. State Public Works Apprenticeship Requirements:

a. The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with "#" symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor's requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.

b. Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

2. Compliance with California Labor Code section 1777.5 requires all public works contractors to:

a. Submit Contract Award Information (DAS-140):

i. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.

ii. The DAS-140 is a notification "announcement" of the Contractor's participation on a public works project—*it is not a request for the dispatch of an apprentice.*

iii. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.

iv. Contractors who are already approved to train apprentices (i.e. check "Box 1" on the DAS-140) shall only be required to submit the form to their approved program.

v. Contractors who are NOT approved to train apprentices (i.e. those that check either "Box 2" or "Box 3" on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see

http://www.dir.ca.gov/Databases/das/pwaddrstart.asp.

b. Employ Registered Apprentices
   i. Labor Code section 1777.5 requires that a contractor performing work in an "apprenticeable" craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Contractor's completion of work on the project. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
   ii. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
   iii. Contractors may use the "DAS-142" form for making a request for the dispatch of an apprentice.
   iv. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
   v. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.
   vi. Only "registered" apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).

c. Make Training Fund Contributions
   i. Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
   ii. Contractors may use the "CAC-2" form for submittal of their training fund contributions.
   iii. Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
   iv. Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
   v. The "training" contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.

3. Exemptions to Apprenticeship Requirements:

a. The following are exempt from having to comply with California apprenticeship requirements. These types of contractors <u>do not</u> need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices:
   i. When the Contractor holds a sole proprietor license ("Owner-Operator") and no workers were employed by the Contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
   ii. Contractors performing in non-apprenticeable crafts. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
   iii. When the Contractor has a direct contract with the Public Agency that is under $30,000.
   iv. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
   v. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

4. Exemption from Apprenticeship Rations:

a. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:
   i. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
   ii. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or

iii. The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or

iv. If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

b. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

5. Contractor's Compliance:

a. The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.

Appendix D

COMPLIANCE WITH AMERICAN RESCUE PLAN ACT (ARPA)
CORONAVIRUS LOCAL FISCAL RECOVERY FUND (CLFRF) FEDERAL GUIDELINES
USE OF ARPA CLFRF AND REQUIREMENTS

This Contract may be funded in whole or in part with funds provided by the American Rescue Plan Act - Coronavirus Local Fiscal Recovery Fund (ARPA), *Federal Award Identification Number (FAIN): SLT0628 and Assistance Listing Number (formerly known as a CFDA number): 21.027*, and therefore Contractor agrees to comply with any and all ARPA requirements in addition to any and all applicable County, State, and Federal laws, regulations, policies, and procedures pertaining to the funding of this Contract. The use of the funds must also adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. Any funds expended by Contractor or its subcontractor(s) in any manner that does not adhere to the ARPA requirements shall be returned or repaid to the County. Any funds paid to Contractor i) in excess of the amount to which Contractor is finally determined to be authorized to retain; ii) that are determined to have been misused; or iii) that are determined to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid, shall constitute a debt to the federal government. Contractor agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to the Act, and guidance issued by Treasury regarding the foregoing. Contractor shall provide for such compliance in any agreements with subcontractor(s).

Contractor agrees to comply with the following:

A. In accordance with Title 2 Code of Federal Regulations (C.F.R.) Section 200.322, the non-Federal Contractor should, to the greatest extent practicable under a Federal award, 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 subawards including all contracts and purchase orders for work or products under this award. For purposes of this section: "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. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

B. In accordance with Title 2 C.F.R. Section 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, cloud servers are allowable except for the following circumstances: Obligating or expending covered telecommunications and video surveillance services or equipment or services (as described in Title 2 C.F.R. Section 200.216) to: 1) Procure or obtain, extend or renew a contract to procure or obtain; 2) Enter into a contract (or extend or renew a contract) to procure; or 3) Obtain the equipment, services, or systems, as described in Title 2 C.F.R. Section 200.216 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) and: (i) 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); (ii) Telecommunications or video surveillance services provided by such entities or using such equipment; and (iii) 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. 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.

C. A non-Federal Contractor that is a state agency or agency of a political subdivision of a state and its contractors 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 Title 40 C.F.R. 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.

D. Byrd Anti-Lobbying Amendment (31 U.S.C. Section 1352) - Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by Title 31 U.S.C. Section 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

E. Clean Air Act (42 U.S.C. Sections 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. Sections 1251-1389), as amended - Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. Sections 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. Sections1251-1389).

F. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under Title 37 C.F.R. Section 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Title 33 U.S.C. Sections 1251-1387 recipient or subrecipient must comply with the requirements of Title 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

G. Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 3701-3708). Where applicable, all contracts awarded by the non-Federal Contractor in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with Title 40 U.S.C. Sections 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under Title 40 U.S.C. Section 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of Title 40 U.S.C. Section 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to health or safety.

These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

H. Davis-Bacon Act, as amended (40 U.S.C. Sections 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. Sections 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal contractor must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal Contractor must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. Section 874 and 40 U.S.C. Section 3145), as supplemented by Department of Labor regulations (29 C.F.R. 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"). The Act provides that each contractor or subrecipient must be 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. The non-Federal contractor must report all suspected or reported violations to the Federal awarding agency.

i. The Contractor and all Subcontractors and Sub-subcontractors are required to pay their employees and workers a wage not less than the minimum wage for the work classification as specified in both the Federal and California wage decisions. See Exhibit "B" for additional information regarding California Prevailing Wage Rate Requirements and the applicable general prevailing wage determinations which are on file with the County and are available to any interested party on request. The higher of the two applicable wage determinations, either California prevailing wage or Davis-Bacon Federal prevailing wage, will be enforced for all applicable work/services under this Contract.

I. Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by Title 41 U.S.C. Section 1908, must address administrative, contractual, or legal remedies in instances where Contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

J. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal Contractor including the manner by which it will be effected and the basis for settlement.

K. Equal Employment Opportunity. Except as otherwise provided under Title 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in Title 41 C.F.R. Section 60-1.3 must include the equal opportunity clause provided under Title 41 C.F.R. Section 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The identified clause is below and Contractor shall comply with the clause and all legal requirements and include the equal opportunity clause in each of its nonexempt subcontracts.

i. The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at Title 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained from the Federal

Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The 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, sexual orientation, gender identity, 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. The 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.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The 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 the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The 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.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the 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 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.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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. The 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, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

L. Data Collection Requirements – Contractor agrees to collect pre-post data per County, and United States Treasury guidelines and timeline, for project tracking and monitoring and various reporting purposes. Data including, but not limited to: Required Project Demographic Distribution Data; Required Performance Indicators and Programmatic Data; Required Expenditure Report Data; and Required Program Evaluation Data. Contractor agrees to track and monitor data in a quantifiable and reportable database - retrievable collective data that needs to be available to County, State or Federal governments upon request.

M. Data Submission Requirements - Contractor agrees to furnish data to the County upon request, per County, and United States Treasury guidelines and timeline, for project tracking and monitoring and various reporting purposes. Data including, but not limited to: Required Project Demographic Distribution Data; Required Performance Indicators and Programmatic Data; Required Expenditure Report Data; Required Program Evaluation Data. Contractor agrees to track and monitor data in a quantifiable and reportable database - retrievable collective data that needs to be available at request.

N. Project Progress Reporting - Contractor agrees to provide project timeline and progress updates to the County upon request, per County, and United States Treasury guidelines and timeline. Contractor agrees to routine and impromptu program and project evaluation by the County.

O. Contractor shall comply with Title 2 Code of Federal Regulations Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), including, but not limited to, Title 2 C.F.R. Section 200.303 (internal control), Title 2 C.F.R. Sections 200.331 through 200.333 (subrecipient monitoring and management), and Title 2 C.F.R. Part 200 Subpart F (audit requirements), as these sections currently exist or may be amended. The use of funds must also adhere to official federal guidance issued or to be issued on what constitutes an eligible expenditure. Any funds expended by Contractor or its subcontractor(s) in any manner that does not adhere to official federal guidance shall be returned to the County. Contractor agrees to comply with all official guidance regarding the ARPA CLFRF.

Contractor also agree that as additional federal guidance becomes available, an amendment to this Contract may become necessary. If an amendment is required, Contractor agrees to promptly execute the Contract amendment.

P. Contractor shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts in a manner consistent with Title 2 C.F.R. Section 200.334 (retention requirements for records). Such documentation shall be produced to County upon request and may be subject to audit. Unless otherwise provided by Federal or State law (whichever is the most restrictive), Contractor shall maintain all documentation connected with its performance under this Contract for a minimum of five (5) years from the date of the last payment made by County or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of the County, the State or the United States Government during normal business hours at Contractor. Copies will be made and furnished by Contractor upon written request by County.

Q. Contractor shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Contractor's requests for reimbursement which segregate and accumulate costs of Contractor and produce monthly reports which clearly identify reimbursable costs, matching fund costs (if applicable), and other allowable expenditures by Contractor. Contractor shall provide a monthly report of expenditures under this Contract no later than the 20th day of the following month.

R. Contractor shall cooperate in having an audit completed by County, at County's option and expense. Any audit required by ARPA CLFRF and its regulation and United States Treasury guidance will be completed by Contractor at Contractor's expense.

S. Contractor shall repay to County any reimbursement for ARPA CLFRF funding that is determined by subsequent audit to be unallowable under the ARPA CLFRF within the time period required by the ARPA CLFRF, but no later than one hundred twenty (120) days of Contractor receiving notice of audit findings, which time shall include an opportunity for Contractor to respond to and/or resolve the findings. Should the findings not be otherwise resolved and Contractor fail to reimburse moneys due County within one hundred twenty (120) days of audit findings, or within such other period as may be agreed between both parties or required by the ARPA CLFRF, County reserves the right to withhold future payments due Contractor from any source under County's control.

T. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Title 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable 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.

U. Universal Identifier and System for Award Management (SAM), Title 2 C.F.R. Part 25.

V. Reporting Subaward and Executive Compensation Information, Title 2 C.F.R. Part 170.

W. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (nonprocurement), Title 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to Title 2 C.F.R. Part 180 and Treasury's implementing regulation at Title 31 C.F.R. Part 19. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 C.F.R. Section 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at Title 2 C.F.R. Part 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

X. Recipient Integrity and Performance Matters, pursuant to which the award terms set forth in Title 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

Y. Government Requirements for Drug-Free Workplace, Title 31 C.F.R. Part 20.

Z. New Restrictions on Lobbying, Title 31 C.F.R. Part 21.

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

BB. Applicable Federal environmental laws and regulations.

CC. Statutes and regulations prohibiting discrimination include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) and Treasury's implementing regulations at Title 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Sections 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101 et seq.), 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.

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. Sections 12101 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.

DD. Contractor understands that making false statements or claims in connection with the ARPA funded activities 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.

EE. Any publications produced with ARPA funds must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number SLT-0628 awarded to San Bernardino County by the U.S. Department of Treasury."

FF. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is being encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

GG. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is being encouraged to adopt and enforce policies that ban text messaging while driving and establishing workplace safety policies to decrease accidents caused by distracted drivers.

HH. As a recipient of federal financial assistance, the Civil Rights Restoration Act of 1987 applies, and Contractor assures that it:

i. Ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal funds, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. Sections 2000d et seq.), as implemented by the

Department of the Treasury Title VI regulations at Title 31 C.F.R. Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda and/or guidance documents.

ii. Acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Contractor understands that denying a person access to its programs, services, and activities, because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Contractor shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail provide language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication.

iii. Agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting programs, services, and activities.

iv. Agrees to maintain a complaint log of 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 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome.

II. The County must include the following language in every contract or agreement subject to Title VI and its regulations:

> "The sub-grantee, contractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or nation origin (42 U.S.C. Section 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, Title 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. Section 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, Title 31 C.F.R. Sections Part 22, and herein incorporated by reference and made a part of this contract or agreement."

JJ. Contractor shall cooperate in any enforcement or compliance review activities by the County and/or the Department of the Treasury. Contractor shall comply with information requests, on-site compliance reviews, and reporting requirements.

KK. Contractor shall maintain records and financial documents sufficient to evidence compliance with section 603(c), regulations adopted by Treasury implementing those sections, and guidance issued by Treasury regarding the foregoing.

LL. County has the right of access to records (electronic or otherwise) of Contractor in order to conduct audits or other investigations.

MM. Contractor shall maintain records for a period of five (5) years after the completion of the contract or a period of five (5) years after the last reporting date the County is obligated with the Department of the U.S. Treasury, whichever is later.

NN. Contractor must disclose in writing any potential conflict of interest in accordance with Title 2 C.F.R. Section 200.112.

OO. In accordance with Title 41 U.S.C. Section 4712, subrecipient or 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.

The list of persons and entities referenced in the paragraph above includes the following: (i) A member of Congress or a representative of a committee of Congress; (ii) An Inspector General; (iii) The Government Accountability Office; (iv) A Treasury employee responsible for contract or grant oversight or management; (v) An authorized official of the Department of Justice or other law enforcement agency; (vi) A court or grand jury; or (vii) A management official or other employee of Recipient, subrecipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct. Subrecipient or Contractor shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

PP. County and Contractor acknowledge that if additional federal guidance is issued, an amendment to this Contract may be necessary. In the event any of the terms in this Exhibit conflict with any other terms in the Contract, the terms in this Exhibit shall control.