



Contract Number

SAP Number

Department of Public Works – Special Districts

Department Contract Representative	Phil Krause, Project Manager
Telephone Number	(909) 386-8800
Contractor	HDR Engineering, Inc.
Contractor Representative	David R. Spencer
Telephone Number	(951) 320-7300
Contract Term	240 Days
Original Contract Amount	\$124,900
Amendment Amount	
Total Contract Amount	
Cost Center	41200004580 and 1650004674

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, San Bernardino County, Department of Public Works, Special Districts (Department), Water and Sanitation Division (Division) desires to utilize the services of a Professional Engineer (Consultant) to perform an asbestos-cement (AC) pipe condition and longevity assessment within CSA 64, Spring Valley Lake and CSA 70, Zone J, Oak Hills (District); and

WHEREAS, the Department conducted a competitive proposal process to find HDR Engineering, Inc. (Consultant) to provide these services, and

WHEREAS, based upon and in reliance on the representations of Consultant in its response to the Department's Request for Proposals, the Department finds Consultant qualified to provide the AC pipe condition and longevity assessment; and

WHEREAS, the District desires that such services be provided by Consultant and Consultant agrees to perform these services as set forth below;

NOW, THEREFORE, the District and Consultant mutually agree to the following terms and conditions:

A. DEFINITIONS

- A.1 Board** – The County Board of Supervisor's or Directors for Districts.
- A.2 County** - San Bernardino County and its authorized representatives.
- A.3 Department of Public Works - Special Districts** - County Department that administers and manages the operations and financing of all Board Governed Special District.
- A.4 Director of Special Districts** - The individual charged with the responsibility of administrative management and all authority related to all matters with the Department of Public Works, Special Districts.
- A.5 District** – Political subdivisions of the County of San Bernardino governed by the Board of Supervisors and administered by the Department of Public Works, Special Districts that includes County Service Areas, their Zones and some separate operating Districts, including Big Bear Valley Recreation and some separate operating Districts.
- A.6 Division** – Department of Public Works, Special Districts, Water and Sanitation Division
- A.7 Division Manager** - The individual charged with the responsibility of management and authority related to all matters of the Water and Sanitation Division.
- A.8 Purchase Order** - Written authorization issued by DPW-SD on behalf of County/District which itemizes and quantifies the requirements for any given and requested task to be performed by Consultant. Form shall also indicate the not-to-exceed fee value for service as negotiated and anticipated, any required timelines to be met, and any deliverables required to satisfactorily accomplish the task.

B. CONSULTANT RESPONSIBILITIES

The services to be rendered by the Consultant shall consist of all such services as customarily performed by a Licensed Professional Engineer for the purposes of addressing current AC Pipe Conditions and extrapolating a Longevity Assessment, including, but not limited to the following:

- B.1** Analyze and evaluate domestic water systems, existing AC piping and related appurtenant facilities to assemble a thorough System Sampling Study. The Study shall make recommendations identifying pipe sampling locations, sampling methodology and costs related to sampling.
- B.2** Research each domestic water system by pressure zone, categorizing soil types, water chemistry pipe size diversity and pipe location conditions.
- B.3** Work closely with Division staff, managers and contractors on engineering and system operational matters while performing technical tasks in obtaining, evaluating and determining AC pipe conditions and potential longevity.
- B.4** Perform AC Pipe condition assessment, soil testing and laboratory testing, to industry standards, to properly, thoroughly and minimally address:
 - a. Evaluation of extent of pipe degradation;
 - b. Soil testing and classification; and
 - c. Consideration of State recommended criteria in the assessment of AC pipe.
- B.6** Prepare a Service Life Assessment and Engineering Report detailing the outcomes of the testing regimen in an Engineering Report of Findings.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

C.2 Contract Amendments

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County/District.

C.3 Contract Assignability

Without the prior written consent of the County/District, the Contract is not assignable by Contractor either in whole or in part.

C.4 Contract Exclusivity

This is not an exclusive Contract. The County/District reserves the right to enter into a contract with other contractors for the same or similar services. The County/District does not guarantee or represent that the Contractor 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.

C.5 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 attorney 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 Indemnification and Insurance Requirements.

C.6 Background Checks for Contractor Personnel

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the County/District; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County/District and not in violation of applicable law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Services. If requested by the County/District, Contractor shall provide the results of the background check of each to the County/District. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. Contractor personnel who do not meet the County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or Services, and County shall have the right, at its sole option, to refuse access to any Contract personnel to any County facility.

C.7 Change of Address

Contractor shall notify the County/District in writing, of any change in mailing address within ten (10) business days of the change.

C.8 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

C.9 Compliance with County Policy

In performing the Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal,

professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to the County facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Contract.

C.10 Confidentiality

Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

C.11 Primary Point of Contact

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County/District inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County/District. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.12 County Internship Initiative

Contractor agrees to be contacted by the County to solicit its participation in an internship initiative known as GenerationGo! Career Pathways, involving the potential placement and hiring of interns by Contractor's business. Contractor is encouraged, and agrees to make good faith efforts, to utilize the County's program to aid the **County's Vision for a skilled workforce and jobs that create countywide prosperity**, and its **goal to Create, Maintain and Grow Jobs and Economic Value in the County**. The County's objective with its internship initiative is to focus on training, education, employment and support services to develop a more highly-educated and trained workforce. When participating in the County's internship initiative, the Contractor remains an independent contractor and shall not be construed as agents, officers, or employees of the County. More information about the County's GenerationGo! Career Pathways Program can be located at <http://wp.sbcounty.gov/workforce/career-pathways/>.

C.13 District Representative

The Director of Public Works – Special Districts or his/her designee shall represent the District in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

C.14 Damage to County Property

Contractor shall repair, or cause to be repaired, at its own cost, all damages to County vehicles, facilities, buildings or grounds caused by the wrongful or negligent acts of Contractor or its

employees or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor, 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 Contractor from the County, as determined at the County's sole discretion.

C. 15 Debarment and Suspension

Contractor certifies that neither it nor its principals or subcontractors is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

C.16 Drug and Alcohol Free Workplace

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

- C.16.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- C.16.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- C.16.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the District 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 District.

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

C.17 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.18 Employment Discrimination

During the term of the Contract, Contractor 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. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing 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.

C.19 Environmental Requirements

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 Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor 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), Contractor must be able to annually report the County's environmentally preferable purchases. Contractor must also be able to report on environmentally preferable goods and materials used in the provision of their service to the County, utilizing a County approved form.

C.20 Improper Influence

Contractor shall make all reasonable efforts to ensure that no County/District officer or employee, whose position in 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 Contractor or officer or employee of the Contractor.

C.21 Improper Consideration

Contractor 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/District in an attempt to secure favorable treatment regarding this Contract.

The County/District, 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/District with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

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

C.22 Informal Dispute Resolution

In the event the County/District determines that service is unsatisfactory, or in the event of any other 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.

C.23 Legality and Severability

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.

C.24 Licenses, Permits and/or Certifications

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify County/District immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

C.25 Material Misstatement/Misrepresentation

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

C.26 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.27 Nondisclosure

Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County/District to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

C.28 Notice of Delays

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 contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

C.29 Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County/District upon payment for services (and product, if applicable). All such items shall be delivered to County/District at the completion of work under the Contract. Unless otherwise directed by County/District, Contractor may retain copies of such items.

C.30 Reserved

C.31 Air, Water Pollution Control, Safety and Health

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

C.32 Records

Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a 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.

C.33 Relationship of the Parties

Nothing contained in this Contract 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.

C.34 Release of Information

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

C.35 Representation of the District

In the performance of this Contract, Consultant, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

C.36 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C.37 Subcontracting

Consultant shall obtain County/District's written consent, which County/District may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Services to County/District. At County/District's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the County/District, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County/District for its subcontractors and shall indemnify County/District for the actions or omissions of its subcontractors under the terms and conditions specified in Section G. All approved subcontractors shall be subject to the provisions of this Contract applicable to Contractor Personnel.

For any subcontractor, Contractor shall:

- 37.1** Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and

- 37.2** Ensure that the subcontractor follows County/District's reporting formats and procedures as specified by County/District.
- 37.3** Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities, C. General Contract Requirements and G. Insurance and Indemnification.

Upon expiration or termination of this Contract for any reason, County/District will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County/District.

C. 38 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Consultant or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Consultant and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Consultant for County.

C.39 Termination for Convenience

The County/District and the Consultant each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Consultant for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Consultant shall promptly discontinue services unless the notice directs otherwise. Consultant shall deliver promptly to County/District and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

C.40 Time of the Essence

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

C.41 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 of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

C.42 Conflict of Interest

Consultant shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County/District. Consultant shall make a reasonable effort to prevent employees, Consultant, 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/District determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County/District 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.

C.43 Former County Administrative Officials

Consultant agrees to provide or has already provided information on former County of San Bernardino 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, County 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.

C.44 Disclosure of Criminal and Civil Procedures

The County/District reserves the right to request the information described herein from the Consultant. Failure to provide the information may result in a termination of the Contract. The County/District also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Consultant also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Consultant is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Consultant will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Consultant is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Consultant will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County/District. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

C.45 Reserved

C.46 Reserved

C.47 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 contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

C.48 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, site assessment, feasibility study, and other 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/District, 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 Attachment A, which is attached and incorporated by reference, for additional information regarding Prevailing Wage Laws. Consultant shall comply with all applicable terms and conditions in Attachment A. The applicable general prevailing wage determinations are on file with the County/District and are available to any interested party on request. Consultant shall post a copy of the applicable prevailing wage determinations at the job site.

D. TERM OF CONTRACT

This Contract is effective as of February 8, 2022, for a period of 240 days, and shall expire October 6, 2022, but may be terminated earlier in accordance with provisions of this Contract.

E. DISTRICT RESPONSIBILITIES

- E.1** District will provide project budgeting and scheduling requirements for needed tasks.
- E.2** District will provide access to sites for Consultant to perform assigned work.
- E.3** District may provide data, maps, plans, and information to the extent that the data is available for the performance of the Consultant's duties. Data may be in various archived formats, and Consultant will be responsible for its interpretation, conversion, and transition for intended purposes.
- E.4** District will issue a written purchase order outlining the specific duties/tasks and timeline required for the mutually agreed upon fee for that service or task.

- E.5** District will notify Consultant in writing of District's procedures required and identify by name the District representative authorized to act on District's behalf.
- E.6** District shall review documents, data, and reports submitted by Consultant and shall promptly render decisions pertaining thereto.
- E.7** Nothing in this Agreement nor any act or failure to act on the part of the District shall be construed as a waiver of claim by District for any defects or deficiencies in the reports or interpretive conclusions drawn by reports or observations conducted and performed by Consultant. Consultant is responsible to determine the accuracy of all documents used and incorporated into its work.

F. FISCAL PROVISIONS

- F.1** The maximum amount of payment under this Contract shall not exceed an aggregate amount of \$124,900, for the contract term, of which some may be federally funded, and shall be subject to availability of other funds to the District. The consideration to be paid to Consultant, as provided herein, shall be in full payment for all Consultant's services and expenses incurred in the performance hereof, including travel and per diem.

- F.2** Invoices shall be issued with a net forty-five (45) day payment term with corresponding Purchase Order number stated on the invoice.

District shall compensate the Consultant either by a negotiated fee per project, task or purchase order that is pre-determined and authorized in advance of such work being performed, or on a time and materials basis all based upon Consultants fee schedule (Exhibit A) and per itemized invoices identifying each component of work submitted. Each purchase order shall identify specific work/tasks required, designate the method of compensation and shall be approved by District's authorized personnel. Any reimbursable expenses shall be included in the total cost for anticipated services. Invoices shall be submitted once monthly on on-going projects or upon satisfactory completion of a work phase.

- F.3** 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.

- F.4** County/District 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/District 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/District pursuant to the Contract.

- F.5** Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County/District. Consultant shall not use current year funds to pay prior or future year obligations.

- F.6** Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Consultant shall not claim reimbursement or payment from County/District for, or apply sums received from County/District with respect to that portion of its obligations that have been paid by another source of revenue. Consultant agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County/District.

- F.7** Consultant shall adhere to the County/District's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the

County/District. In addition, Consultant is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

The Consultant agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County/District and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability to the extent arising out of, or related to, any breach of the Contract by Consultant, and/or the negligence, recklessness, or willful misconduct of Consultant or Consultant's officers, agents, employees, representatives, subcontractors, or any persons who are directly responsible to the Consultant. This indemnification provision shall apply regardless of the existence of fault of indemnities. The Consultant's indemnification obligation applies to the County/District's "passive" negligence but does not apply to the County/District's "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code section 2782 provided such "active" negligence or "willful misconduct" is determined by agreement of the parties or by findings of a court.

G.2 Additional Insured

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County/District and its officers, employees, agents and volunteers as additional named insured 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/District to vicarious liability but shall allow coverage for the County/District 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.

G.3 Waiver of Subrogation Rights

The Consultant shall require the carriers of required coverages to waive all rights of subrogation against the County/District, its officers, employees, agents, volunteers, Consultants and subcontractors. 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/District.

G.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/District.

G.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/District or between the County and any other insured or additional insured under the policy.

G.6 Proof of Coverage

The Consultant shall furnish Certificates of Insurance to the County/District 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 cancelled or materially changed 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.

G.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".

G.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.

G.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/District 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/District will be promptly reimbursed by the Consultant or County/District payments to the Consultant will be reduced to pay for County purchased insurance.

G.10 Insurance Review

Insurance requirements are subject to periodic review by the County/District. 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/District. 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/District, inflation, or any other item reasonably related to the County/District'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/District 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/District.

- G.11** 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:

- G.11.1** Workers' Compensation/Employer's 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/District that it 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.

G.11.2 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.

G.11.3 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.

G.11.4 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.

G.11.5 **Reserved**

G.11.6 **Professional Services Requirements**

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.

G.12 Reserved

H. RIGHT TO MONITOR AND AUDIT

H.1 The County, State and Federal government 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 Contract. Consultant shall give full cooperation, in any auditing or monitoring conducted. Consultant shall cooperate with the County/District in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the County/District.

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

I. CORRECTION OF PERFORMANCE DEFICIENCIES

I.1 Failure by Consultant to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.

I.2 In the event of a non-cured breach, County/District may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a. Afford Consultant thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County/District but will not be less than five (5) days; and/or
- b. Discontinue reimbursement to Consultant for and during the period in which Consultant is in breach, which reimbursement shall not be entitled to later recovery; and/or
- c. Withhold funds pending duration of the breach; and/or
- d. Offset against any monies billed by Consultant but yet unpaid by County/District those monies disallowed pursuant to Item "b" of this paragraph; and/or
- e. Terminate this Contract after providing the cure period in subpart a. above and be relieved of the payment of any consideration to Consultant. In the event of such termination, the County/District may proceed with the work in any manner deemed proper by the County/District. The cost to the County/District shall be deducted from any sum due to the Consultant under this Contract and the balance, if any, shall be paid by the Consultant upon demand.

J. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

County of San Bernardino
Department of Public Works – Special Districts
222 W. Hospitality Lane, 2nd Floor
(909) 386-8800 (Office)
(909) 386-8839 (Fax)

HDR Engineering, Inc.
2280 Market Street, Suite 100
Riverside, CA 92502-2110
(951) 320-7300 (Office)
(951) 320-7301 (Fax)

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

K. ENTIRE AGREEMENT

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

L. CONTRACT EXECUTION

This Agreement 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 Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email 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 Agreement upon request.

IN WITNESS WHEREOF, the District and the Consultant have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

COUNTY SERVICE AREA 64

►

Curt Hagman, Chairman, Board of Supervisors

Dated: _____

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
of the County of San Bernardino

By _____
Deputy

COUNTY SERVICE AREA 70J

►

Curt Hagman, Chairman, Board of Supervisors

Dated: _____

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
of the County of San Bernardino

By _____
Deputy

HDR Engineering, Inc.

(Print or type name of corporation, company, contractor, etc.)

By ► _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form

► _____
Aaron Gest, Deputy County Counsel

Date _____

Reviewed for Contract Compliance

► _____
Moe Yousif, Division Manager

Date _____

Reviewed/Approved by Department

► _____
Trevor Leja, Assistant Director

Date _____

ATTACHMENT A

CONSULTANT FEE SCHEDULE

San Bernardino County | AC Pipe Condition & Longevity Assessment Professional Services
Request for Proposal No. SDD-016



Fee Schedule

Rate Schedule

CLASSIFICATION	HOURLY RATE (REGULAR TIME)
Project Manager	\$275
QA/QC Technical Advisor	\$340
Senior Engineer	\$260
Soil Testing & Field Oversight Lead	\$150
Project Accountant	\$125
Project Coordinator	\$125

Direct Costs

Other Direct Costs (ODC) are reimbursable expenses that are incurred directly or indirectly in connection with the project for transportation travel, subconsultants, subcontractors, shipping, and other incurred expenses. HDR will invoice ODCs at cost and does not apply a markup. Vehicle mileage incurred for professional services will be billed on a per mile basis at the then current Federal Travel Regulations rate.

Procedures for Overtime Pay

HDR follows fair employment practices. Professional service hours worked in excess of eight (8) per day or forty (40) hours per week will be billed at straight time in accordance with the rate schedule presented below. Overtime if required for accelerated work, will be discussed on a case-by-case basis and will comply with California labor laws and prevailing wage requirements.