

Department of Public Works Imperial County, California
Public Works works for the Public



REQUEST FOR PROPOSALS

Niland Storm Drainage Feasibility Study Report
County Project Number 7096NSDFS

Requested by:

John A. Gay, PE
Director of Public Works

Prepared By:

Frank Fiorenza, PE
Resident Engineer II

Deadline for Submissions: December 29, 2023 by 4:00 P.M

Imperial County Department of Public Works
155 S. 11th Street
El Centro, CA 92243

RFP Issued on November 29, 2023
Questions due December 14, 2023

PROPOSALS MUST BE SUBMITTED ON THE SPECIFIED DATE AND TIME. THE COUNTY WILL NOT CONSIDER PROPOSALS RECEIVED AFTER THE DUE DATE. AN AMENDMENT IS CONSIDERED A NEW PROPOSAL AND WILL NOT BE ACCEPTED AFTER THE SPECIFIED DATE AND TIME.

Special Notice

Notification of Contractor Registration Requirements (where required)

Pursuant to the requirements of California Labor Code section 1771.1, all contractors and subcontractors that wish to engage in public work through a public works contract must be registered with the Department of Industrial Relations (DIR).

Beginning March 1, 2015, no contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with DIR.

Beginning April 1, 2015, no contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the DIR, pursuant to Labor Code section 1725.5

All contractors, including subcontractors, listed in the proposal must be registered with the DIR at the time proposals are due, and must submit proof of registration with the proposal. Any proposals received listing unregistered contractors and/or subcontractors will be deemed non-responsive.

NOTE: DIR number is to be specified on the cover page of the consultant proposal. Proof of registration for consultant and sub consultant shall also be submitted as an exhibit of the proposal.

Application and renewal are completed online with a non-refundable fee of \$400. Read the Public Works Reforms (SB 854) Fact Sheet for requirements. Instructions for completing the form and additional information can be found on the DIR website.

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR).

SOURCES OF INFORMATION

INFORMATION	WEBSITE
Department of Industrial Relations (Public Works)	http://www.dir.ca.gov/Public-Works/PublicWorks.html
SB 854 Fact Sheet	http://www.dir.ca.gov/Public-Works/PublicWorksSB854.html
Senate Bill 854 Compliance	http://www.dir.ca.gov/Public-Works/SB854.html
Public Works Contractor (PWC) Registration	https://www.dir.ca.gov/Public-Works/Contractor-Registration.html
Classifications and Minimum Labor Rates	http://www.dir.ca.gov/OPRL/Pwd/

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EXHIBIT(S):

A – Location Map

B – Sample Proposal Evaluation Form

C – Sample Consultant Agreement and Insurance Requirements*

**No changes shall be made to consultant agreement or insurance requirements*

I. PURPOSE AND BACKGROUND

Imperial County Department of Public Works is considering future storm drainage improvements within and near the Niland community, located approximately 4 miles east of the Salton Sea's east shore, within Imperial County. Niland is an unincorporated community in Imperial County which receives storm drainage flows from the desert mountains east of Niland. These drainage flows are conveyed via both sheet flow and concentrated flows past the Coachella Valley Water District's Coachella Canal, the Imperial Irrigation's East Highline Canal, and the Union Pacific Railroad tracks before entering the Niland community, and ultimately to the Sea. Unfortunately, periodic storm water flows have entered the EHL, silting up and breaching the canal, with potentially significant storm and canal water flows discharging downstream into the Niland community, impacting the open canals, drain channels, and road infrastructure, as well as flooding homes. The recent September 1, 2023, storm event did exactly this with damage to public and private infrastructure. Recent storms in 2016 and 2012 had similar situations where the IID's EHL was breached with outlying desert wash storm water discharges, resulting in flooding downstream, impacting the canals, drains and roads, requiring significant repairs to County and IID infrastructure.

The County operates and maintains public roads within the Niland community. Electric power is provided by Imperial Irrigation District (IID) Energy Department, and irrigation water for agricultural use is provided by the IID Water Department. Potable water is provided by Golden State Water, sewer services are provided by the Niland County Sanitation District.

In 2007 a Drainage Master Plan for Niland was prepared which only reviewed storm water drainage generated within the community, not from outside the community with recommended improvements for conveyance of storm water. Recent storm flooding events in the Niland area were influenced by storm flow and debris inundation from mountain and desert runoff that impaired IID drain and canal systems as well as Union Pacific Railroad drain facilities.

This scope of work will include reviewing the 2007 report as background information only and other recent information and data related to the September 2023 storm event, and previous storm events which impacted the Niland community, It shall include meeting with representatives from both Imperial County and Imperial Irrigation District emergency management staff, department managers, elected officials and engineering staffing, several site visits to the Niland community and understanding the breadth of tributary drainage areas that discharge storm water to the community. It shall include preparing a feasibility study to include an independent hydrology study and drainage report, narrative of the flooding issues the community experiences, and capital improvement recommendations to address how storm drainage from outside the community can be addressed to minimize impacts and to reduce the risks of storm water flooding in the community with several alternatives. It shall consider offsite flows discharging into the community area primarily with community generated storm water addressed where there is a nexus to the offsite flows entering the community. The minimum tributary areas that contribute to the Niland community to be studied shall include the areas that are tributary from the intersection of Noffsinger Road and Welch Road, southeast of Niland and north, to where the U lateral crosses Hwy 111, northwest of Niland. The Consultant shall determine the areas tributary between these two points, upstream to where the storm water can be generated from the local mountains. This is a large area and use of the County's 2018 Hydrology Manual shall be used where appropriate.

Consultant shall coordinate with environmental, regulatory, and utility agencies to determine the level of permitting & approvals required for the alternatives provided.

A qualified Consultant will be awarded this work through an agreement to be recommended for approval by the Imperial County Public Works Department and approved by the Imperial County Board of Supervisors.

II. SCOPE OF WORK:

The scope of work is to provide the necessary site reviews, research of existing utilities, right of way/easements, land ownerships, hydrologic & hydraulic engineering studies, discussion with County, Imperial Irrigation District and respective utility agencies, Federal, State and other local permitting agencies for the review, analysis and recommendations of a comprehensive Feasibility Study to address storm drainage and flooding impacts to the Niland community, in Imperial County, in the vicinity of the Salton Sea.

All work shall be in accordance with this Request for Proposal Scope of Work, civil engineering standard practice and the County's Engineering Design Guidelines Manual posted on the ICPW website address at <https://publicworks.imperialcounty.org/forms-and-guidelines/> . All work shall be performed under the direction of a Civil Engineer licensed by the State of California. All studies and engineering analysis shall meet current Imperial County Public Works requirements, including the County's Design Guidelines as appropriate.

Consultant shall consider the following tasks including but not limited to:

1. **Site visit & Meetings.** Consultant shall perform multiple site visits to the Niland community, including upstream tributary drainage areas, meet with the Imperial County and IID representatives including respective agency emergency management, engineers, operation & maintenance, managers, and elected officials to gain an appreciation of the concerns with respect to storm drainage/flooding in the community and impacts to the road and utility infrastructure including canals and drains. Provide representative photographs of key existing drainage features from the Coachella Canal, East Highline Canal and RR tracks where drainage flows initiate, through the community past Caltrans' SR 111.
2. **Review Existing Materials & Reports.** Consultant shall review existing County and IID maps, hydrology studies, drainage master plans, reports, and any available information that will help Consultant understand the issues, and to prepare for the Consultant's final deliverables. It shall serve as a benchmark that will require augmentation by Contractor's subsequent research, topographic survey, hydrology, and hydraulic analysis for preparing the final Feasibility Study as part of this Scope of Work.
3. **Coordination with Utilities.** Consultant shall coordinate with Imperial County, CVWD IID and other utility agencies to determine specific areas of responsibility, location of key utilities, specific to the areas where flooding is occurring upstream of the community of Niland. Anticipation of potential impacts, of potential large retention areas for storm water attenuation before discharges past the East Highline Canal, any dikes, drainage channels or other measures to route storm water around the community of Niland, and/or siting of storm drain pipes conveying storm drainage to minimize impacts to County and IID infrastructure is the goal of Utility Coordination.
4. **Hydrologic/Hydraulic Analysis.** Consultant shall conduct a hydrology study with appropriate hydraulics to review offsite drainage impacts on the Niland community. A summary of impacts, along with recommendations to reduce or minimize flooding risks will be an important part of the study. Additionally, a narrative detailing the offsite

generated storm water impacts should be concise, and detailed to explain to laypersons what, where, how, and what can be done to reduce flooding risks in the community. Use of Imperial County's Hydrology Manual is desirable as it is in the process of being adopted for use within Imperial County in the near future.

5. **Topographic Survey.** Consultant shall provide a topographic survey of the Niland community, including storm drainage pathways considering the tributary areas that impact Niland to the northeast from the limits from the intersection of Noffsinger Road and Welch Road to where U Lateral crosses Hwy 111. The survey shall be sufficient for conceptual level planning only. It is not intended for the final design of any proposed infrastructure CIP projects. The survey includes the tributary area contributing to drainage impacts on the community. Spot elevations at key points along the EHL and Coachella Canal banks and toe slopes should be included, as well as sufficiently downstream to assure a positive drainage for recommended alternative CIP projects.
6. **Land ownership.** Consultant shall perform basic GIS research to provide a summary of land ownerships, with an accompanied aerial overlay map within the areas of study for lands from the UPRR northeast, past the EHL and up to the Coachella Canal. It is anticipated future storm water retention or detention basin(s) could be sited within these areas, east of the Niland community.
7. **Environmental Permitting.** Consultant shall coordinate with Federal, and/or State permitting agencies once a CIP list of potential projects is determined. The coordination shall be only to the point of determining what type of permitting may be required by these agencies relative to the improvements proposed. The goal is to minimize impacts to discharges to the Salton Sea or impeding natural wash flows. It is appropriate for any improvement to intercepting flows to prevent damages to County roads, IID canal and drain infrastructure and/or private properties within the Niland community (perimeter accommodation of storm flow). A summary of potential environmental permitting for each potential CIP project will benefit the final recommendations, as to ease of future project implementation.
8. **Niland Storm Drainage Feasibility Study Report.** Consultant shall summarize all findings with a comprehensive Feasibility Study Report to summarize the storm drainage issues that impact the community, along with recommendations of what can be done to reduce flooding risks in the community. The focus is on external generated discharges that impact the community. Some ideas that should be considered could include retention and/or detention basins that can attenuate peak storm drainage with siltation from impacting the EHL, being able to route under (or over with EHL Pipeline), and past the Niland community, under Hwy 111. Use of new or existing drain channels that would require modification or improvement can be considered, as well as other crossings to be able to protect the Niland community, and the various utility infrastructure.
9. **Capital Improvement Program (CIP).** The results may be considered by the County, and/or IID as a potential capital improvement program, based on future funding availability. Recommendations shall include a matrix of all pertinent, related items such as high-level design and construction costs, environmental permitting, utility relocation, encroachment permits and/or right of way or easements required, along with land ownerships of impacted properties where improvements are suggested.

- Include as exhibits or attachments all studies, mapping, calculations.
 - CIP items can be provided in short, mid, and long-term recommendations based on cost and/or ease of implementation such as due to right of way or permitting.
 - Summarize and/or provide sufficient back up information for assumptions of environmental permitting, and utility relocations anticipated.
10. The proposed, recommended CIP alternatives may be used by the County and/or IID in its capital improvement program and budgeting process to determine future cost-effective projects to fund. Future projects, if selected, will go through their own separate design engineering process, as each agency decides.
11. No Subconsultants shall be utilized without prior authorization by the County. Any authorized Subconsultants providing professional services to consultant shall be held to the same licensing, accreditation, and certification standards as consultant.

Consultant shall attend and participate in the project kick-off meeting with the County and review project goals, scope, workflow methodology, responsibilities of both Consultant and County, and will introduce key staff. During this project, all communications and coordination will be with the Engineer assigned to the project, who is the primary point of contact for the County.

Throughout the course of the project, the Consultant will maintain orderly project files. All tracings, plans, studies, calculations, exhibits, and maps prepared or obtained under the terms of the agreement with County shall be delivered to and become property of the County. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under such agreement shall be made available upon request to the County without restriction or limitation on their use.

At the conclusion of the project, Consultant shall submit to the County an Engineering Report as mentioned above, and clearly labeled with the Project title.

Additionally, a copy of the record of the project is to be provided in Portable Document Format (PDF) on one (1) USB thumb drive. The required project file and all pertinent documents will need to be submitted before the final payment and retention will be released.

III. RESPONSIBILITIES OF COUNTY:

The County will direct the development of the project(s), provide management oversight, and conduct administrative arrangements only. The County will provide any other available plans and records to the consultant as required. The consultant will be responsible for all activities and meetings associated with the project including meeting minutes and record keeping.

The County will pay an agreed upon amount normally within 30 days after receipt of invoice(s). Invoice(s) shall be submitted with a detailed accounting of staff hours attributed to specific tasks. Separate invoices shall be submitted for specific project billings, with a clear notation of the County Project Number.

The County will not provide dedicated workplace facilities, but upon request will provide a conference room for meetings with the Department, consultant and other appropriate agencies if needed.

The County reserves the right to perform any portion of the scope of work by County personnel or other consultants should the County determine that it would be in the best interest of the County to do so.

IV. PROPOSAL CONTENT AND INFORMATION:

At a minimum, proposals should include:

1. Letter of Interest: Provide a cover letter expressing your interest in the project. Include name, address, phone number, and email address of the primary contact; identifying the capacity of this person.
2. Statement of Qualifications: Describe the company's qualifications and experience related to multi-modal transportation planning.
3. Understanding of the project: Provide understanding of the project scope and commitment to address all requirements.
4. Relevant experience with similar project(s): Provide a list of at least three (3) or more similar projects that the firm and staff, proposed for assignment, have successfully completed.
5. References: Provide at least three (3) references, with contact information, for other similar work performed.
6. Legal entity: describe the legal entity with which the County would contract including the structure of the anticipated partnership agreement(s) and ownership interests in the project. Include length of time in business, and number of employees.
7. Project Management: Identify the members of the project team, including the project manager, key consultants, and sub-consultants; include their names and positions, their qualifications, list of similar projects in which they assumed substantial roles, and responsibilities related to the assignment. It is expected that individuals identified as the project team will be actively involved throughout the project.
8. Analysis of Effort/Methodology: Prospective consultants shall describe the overall approach to the project, specific techniques that will be used, and the specific administrative and operational management expertise that will be employed. A proposed schedule shall be included. The project schedule must be clearly stated with intermittent milestones.
9. Approach: Provide a narrative that explains your approach to realizing the specifications stated in the enclosed RFP. Include a description of the approach for the project, including, but not limited to:
 - Overall approach and recommendation for the comprehensive plan;
 - Detailed scope of work that incorporates the guidance provided in this RFP;
 - Schedule; Timeline
10. Capacity: a statement that the firm(s) has sufficient staff resources and capability to perform the work contained within this RFP within the specified timeframe.
11. Taxpayers Identification Number: Each consultant whether an individual, proprietor, partnership or a non-profit corporation or organization must obtain, complete and include, with the proposal submitted, an Internal Revenue Service Form W-9, "Request for Taxpayer Identification Number and Certification".

12. Cost Proposal/Worksheet Includes fee schedule on a time (by personnel) and materials basis; cost by task; and total cost to complete the project. The cost proposal shall be fully inclusive of all services, overhead, and direct expenses. If applicable, include fee structure for additional work/services outside the scope of work. Cost proposal must include statement that offer is valid for at least a ninety (90) day period.

- All costs/fees proposed must accompany proposal *within a separate sealed envelope* clearly labeled with the name of the firm submitting and the title of the RFP.

V. RFP QUESTIONS, CONTACT PERSON, AND SCHEDULE:

Questions concerning this RFP will be responded to collectively, and made available for interested consultants via the ICDPW website <http://www.co.imperial.ca.us/publicwork/default.htm> under “Projects out to Bid” as an addendum. *All inquiries must be submitted in writing no later than close of business on Thursday, December 14, 2023* to the contact person below. **No oral questions will be taken or responded to except for administrative clarifications.**

Contact Person: Naomi C. Robles – MPA, Administrative Analyst III
naomirobles@co.imperial.ca.us

EVENT	DATE
Issue Request for Proposal	November 29, 2023
Last Day for Request(s) for Clarification <i>must be submitted in writing</i>	December 14, 2023
Proposal Due	December 29, 2023
Consultant Selection	January/February 2024
Agreement for Services	March/April 2024

VI. PROPOSAL EVALUATION:

The County will utilize a one-step selection process. The County reserves the right to include an oral interview process component. If an oral interview is considered, selected firms will be notified. Sample evaluation criteria for proposals is attached for review as Exhibit B.

Proposals received shall be reviewed according to the criteria and weighting shown in Exhibit B. In addition to ICDPW Staff, the evaluation panel may include representatives from project stakeholders. A recommendation to award contract will be presented to the Imperial County Board of Supervisors for approval to enter into an agreement.

Please take note that the County reserves the right to select any consultant who is determined qualified and may not correlate to a number 1, number 2 or even number 3 ranked consultant. Additionally, the County reserves the right to reject any and all proposals submitted and/or request additional information for clarification.

Consultants are to submit one (1) original, three (3) copies, and one (1) electronic copy in Portable Document Format (PDF) on a USB thumb drive of the proposal as requested in Section VIII Proposal Submittal. Proposal must be clearly titled:

Niland Storm Drain Feasibility Study Report; County Project Number 7096NSDFS

VII. CONSULTING AGREEMENT:

A sample agreement is attached for review as Exhibit C.

Prior to the start of work, the selected consultant will be required to execute an Agreement for Services with the County. The consulting firm must review the attached sample consulting agreement and minimum insurance amounts. No modification requests to material terms of agreement will be made. The agreement shall not be in force until contracting is approved by the Imperial County Board of Supervisors and after written authorization to proceed has been provided.

Any contract resulting from this RFP will be financed with funds available to the County and/or other available funding.

VIII. PROPOSAL SUBMITTAL:

One (1) original, three (3) copies, and one (1) electronic copy in Portable Document Format (PDF) on a USB Thumb Drive or Compact Disc (CD) of the proposal must be received in person or by mail to Imperial County Department of Public Works no later than close of business **(4:00pm) on Friday, December 29, 2023.** Proposal must be clearly titled:

Niland Storm Drain Feasibility Study Report; County Project Number 7096NSDFS

Proposals are to be delivered in a sealed envelope and addressed to:

Naomi C. Robles – MPA, Administrative Analyst III
Imperial County Department of Public Works
155 S. 11th Street
El Centro, California 92243

Email proposals concurrently to naomirobles@co.imperial.ca.us.

Note: Late proposals will not be considered.

IX. CLOSING ITEMS:

A pre-proposal conference has not been scheduled for this project.

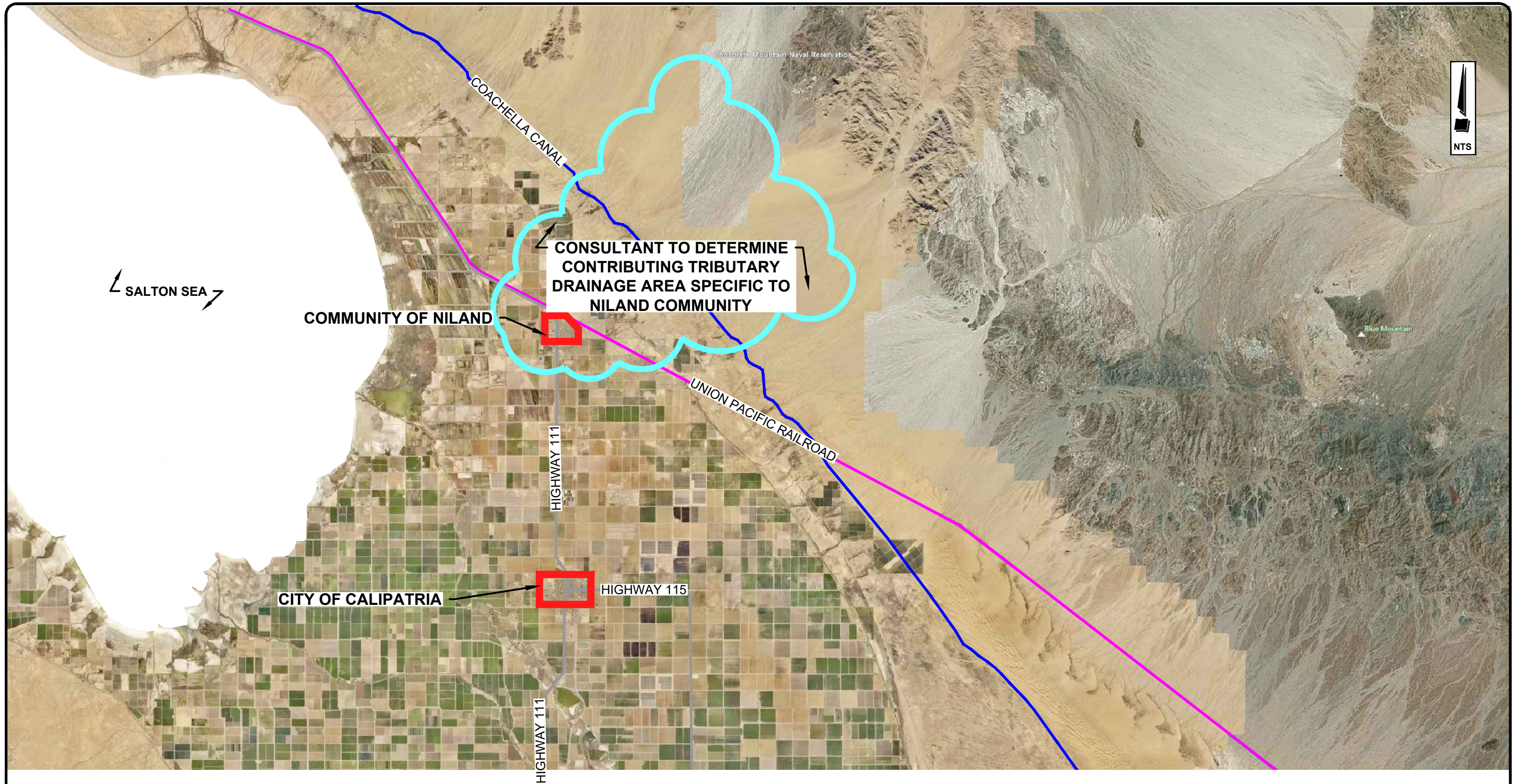
Any modifications to this solicitation will be issued by the County as a written addendum and posted to the Imperial County Department of Public Works website: <http://www.co.imperial.ca.us/publicwork/default.htm> under “Projects out to Bid”

The County will not consider proposals received after the specified date and time. An amendment is considered a new proposal and will not be accepted after the specified date and time.

This RFP does not commit the County of Imperial to award a contract or pay any costs associated with the preparation of a proposal. The County reserves the right to cancel, in part or in its entirety, this solicitation should this be in the best interest of the County.

EXHIBIT A

LOCATION MAPS



COUNTY OF IMPERIAL



**IMPERIAL COUNTY
PUBLIC WORKS DEPARTMENT
EL CENTRO, CALIFORNIA**

PUBLIC WORKS DEPARTMENT

LOCATION MAP

**NILAND TRIBUTARY AREA
FEASIBILITY STUDY RFP
COUNTY PROJECT NO. 7096NSDFD**

DRAWN	DATE
AG	10/17/23
SCALE	CHECKED
NONE	F.F
L-1054	
SHEET	OF
1	1

EXHIBIT B

SAMPLE PROPOSAL EVALUATION FORM

(for information only)



PROPOSAL EVALUATION FORM

NILAND STORM DRAINAGE FEASIBILITY STUDY REPORT
 COUNTY PROJECT NO. 7096NSDFS

RESPONDENT: _____
 EVALUATOR: _____
 DATE: _____
 EVALUATOR SIGNATURE: _____

RATING POINTS:

- 5 = excellent
- 4 = good
- 3 = above average
- 2 = average
- 1 = below average
- 0 = unsatisfactory

CRITERIA	WEIGHT FACTOR	X	RATING	=	WEIGHTED RATING
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A. Relevant Experience	(0.35)				
• Responsiveness & understanding of work to be done, (i.e. scope of work).	(0.15)		_____		_____
• Storm Drainage & Hydrology relevant experience, key personnel, & staff	(0.10)		_____		_____
• Related experience with Drainage Infrastructure CIP, key personnel, & staff	(0.10)		_____		_____

B. Project Management	(0.25)				
• Consultants ability to provide respective services within budget and on schedule.	(0.15)		_____		_____
• Demonstrates organizational skills, and ability to meet client program requirements and goals.	(0.10)		_____		_____

C. References	(0.05)		_____		_____
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D. Understanding	(0.20)				
• Proposal specific to RFP scope of work. Any additional items suggested beyond scope can be included but referenced separately.	(0.20)		_____		_____

E. Problem Solving	(0.15)				
Demonstrate creative problem solving and solutions in dealing with difficult planning, programming, and evaluation analysis.	(0.15)		_____		_____

Subtotal Score _____

F. Previous Experience and performance working
 With County of Imperial Department of Public Works

(0 to -5)

Total Score _____

Note: Positive previous experience and no previous experience will constitute a score of zero (0). Negative experience points will be deducted from the overall score.

Comments:

EXHIBIT C

SAMPLE CONSULTANT AGREEMENT AND INSURANCE REQUIREMENTS

(For information only)

INSURANCE COVERAGE AND LIMITS:

Liability coverage shall be at least as broad as Insurance Services Office (ISO) CGL Policy CG 00 01. No modifications or endorsements are allowed that would reduce, limit, restrict, or exclude coverage under the standard unmodified ISO CGL policy coverages.

<u>Insurance</u>	<u>Minimum Limit*</u>
Professional Liability (Errors and Omissions)	Insurance appropriate to the Contractor's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.
Workers Compensation, Coverage A	as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
Employers Liability, Coverage B	\$1 million
Commercial General Liability (including Contractual Liability):	Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
Comprehensive Automobile Liability (owned, hired & non-owned vehicles) Bodily Injury Property Damage	ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

ADDITIONAL ENDORSEMENT REQUIRED:

1. Waiver of Subrogation (Rights of Recovery) endorsement of Workers' Compensation
2. Additional Insured Endorsement for "ongoing operations" at least as broad as ISO CG 2010 Scheduled form, or Automatic form CG 2038.
3. Additional Insured Endorsement for "completed operations" at least as broad as ISO CG 2037 Scheduled form, or Automatic form CG 2040.
4. Primary & non-contributory coverage (at least as broad as ISO CG 20 01)

Special Risks or Circumstances

The COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

1 **AGREEMENT FOR SERVICES**

2 **SAMPLE**

3 THIS AGREEMENT FOR SERVICES (“Agreement”), made and entered into effective the
4 _____ day of _____, 2021, by and between the County of Imperial, a political subdivision of the
5 State of California, by and through its Department of Public Works (“COUNTY”) and [CONSULTANT],
6 an active California corporation (“CONSULTANT”) (individually, “Party;” collectively, “Parties”) shall be
7 as follows:

8 **RECITALS**

9 **WHEREAS**, COUNTY desires to retain a qualified individual, firm or business entity to provide
10 updates to the (“Project”); and

11 **WHEREAS**, CONSULTANT represents that it is qualified and experienced to perform the
12 services; and

13 **WHEREAS**, COUNTY desires to engage CONSULTANT to provide services by reason of its
14 qualifications and experience for performing such services, and CONSULTANT has offered to provide the
15 required services for the Project on the terms and in the manner set forth herein.

16 **NOW, THEREFORE**, in consideration of their mutual covenants, COUNTY and CONSULTANT
17 have and hereby agree to the following:

18 **1. INCORPORATION OF RECITALS.**

19 The Parties certify that, to the best of their knowledge, the above recitals are true and correct. The
20 above recitals are hereby adopted and incorporated within this Agreement.

21 **2. DEFINITIONS.**

22 **2.1.** “Request for Proposal” or “RFP” shall mean that document that describes the Project and
23 project requirements to prospective bidders entitled, [RFP] dated [RFP Date]. The Request
24 for Proposal is attached hereto as **Exhibit “A”** and incorporated herein by this reference.

25 **2.2.** “Proposal” shall mean CONSULTANT’s document entitled, [Proposal] and submitted to
26 COUNTY’s Department of Public Works. The Proposal is attached hereto as **Exhibit “B”**
27 and incorporated herein this by reference.

28 **3. CONTRACT COORDINATION.**

1 **3.1.** The Director of Public Works or his/her designee shall be the representative of COUNTY
2 for all purposes under this Agreement. The Director of Public Works or his/her designee
3 is hereby designated as the Contract Manager for COUNTY. He/she shall supervise the
4 progress and execution of this Agreement.

5 **3.2.** CONSULTANT shall assign a single Contract Manager to have overall responsibility for
6 the progress and execution of this Agreement. Should circumstances or conditions
7 subsequent to the execution of this Agreement require a substitute Contract Manager for any
8 reason, the Contract Manager designee shall be subject to the prior written acceptance and
9 approval of COUNTY's Contract Manager.

10 **4. DESCRIPTION OF WORK.**

11 CONSULTANT shall provide all materials and labor to perform this Agreement consistent with the
12 RFP and the Proposal, as set forth in **Exhibits "A" and "B."** In the event of a conflict amongst this
13 Agreement, the RFP, and the Proposal, the RFP shall take precedence over the Proposal and this Agreement
14 shall take precedence over both.

15 **5. WORK TO BE PERFORMED BY CONSULTANT.**

16 **5.1.** CONSULTANT shall comply with all terms, conditions and requirements of the Proposal
17 and this Agreement.

18 **5.2.** CONSULTANT shall perform such other tasks as necessary and proper for the full
19 performance of the obligations assumed by CONSULTANT hereunder; including but not
20 limited to any additional work or change orders agreed upon pursuant to written
21 authorization as described in Paragraph 6.3, and as contemplated under Sections 13, 14, and
22 28. Proposed additional work or change order requests, when applicable, will be attached
23 and incorporated herein under **Exhibit "B"** (as "B-1," "B-2," etc.).

24 **5.3.** CONSULTANT shall:

25 **5.3.1.** Procure all permits and licenses, pay all charges and fees, and give all notices that
26 may be necessary and incidental to the due and lawful prosecution of the services
27 to be performed by CONSULTANT under this agreement;

28 **5.3.2.** Keep itself fully informed of all existing and proposed federal, state and local laws,

ordinances, regulations, orders and decrees which may affect those engaged or employed under this Agreement;

5.3.3. At all times observe and comply with, and cause all of its employees to observe and comply with all of said laws, ordinances, regulations, orders and decrees mentioned above; and

5.3.4. Immediately report to COUNTY's Contract Manager in writing any discrepancy or inconsistency it discovers in said laws, ordinances, regulations, orders and decrees mentioned above in relation to any plans, drawings, specifications or provisions of this Agreement.

6. REPRESENTATIONS BY CONSULTANT.

6.1. CONSULTANT understands and agrees that COUNTY has limited knowledge in the multiple areas specified in the Proposal. CONSULTANT has represented itself to be an expert in these fields and understands that COUNTY is relying upon such representation.

6.2. CONSULTANT represents and warrants that it is a lawful entity possessing all required licenses and authorities to do business in the State of California and perform all aspects of this Agreement.

6.3. CONSULTANT shall not commence any work under this Agreement or provide any other services, or materials, in connection therewith until CONSULTANT has received written authorization from COUNTY's Contract manager to do so.

6.4. CONSULTANT represents and warrants that the people executing this Agreement on behalf of CONSULTANT have the authority of CONSULTANT to sign this Agreement and bind CONSULTANT to the performance of all duties and obligations assumed by CONSULTANT herein.

6.5. CONSULTANT represents and warrants that any employee, contractor and/or agent who will be performing any of the duties and obligations of CONSULTANT herein possess all required licenses and authorities, as well as the experience and training, to perform such tasks.

6.6. CONSULTANT represents and warrants that the allegations contained in the Proposal are

1 true and correct.

2 **6.7.** CONSULTANT understands and agrees not to discuss this Agreement or work performed
3 pursuant to this Agreement with anyone not a party to this Agreement without the prior
4 permission of COUNTY. CONSULTANT further agrees to immediately advise
5 COUNTY of any contacts or inquiries made by anyone not a party to this Agreement with
6 respect to work performed pursuant to this Agreement.

7 **6.8.** Prior to accepting any work under this Agreement, CONSULTANT shall perform a due
8 diligence review of its files and advise COUNTY of any conflict or potential conflict
9 CONSULTANT may have with respect to the work requested.

10 **6.9.** CONSULTANT understands and agrees that in the course of performance of this
11 Agreement CONSULTANT may be provided with information or data considered by the
12 owner or the COUNTY to be confidential. COUNTY shall clearly identify such
13 information and/or data as confidential. CONSULTANT shall take all necessary steps
14 necessary to maintain such confidentiality including but not limited to restricting the
15 dissemination of all material received to those required to have such data in order for
16 CONSULTANT to perform under this Agreement.

17 **6.10.** CONSULTANT represents that the personnel dedicated to this project as identified in
18 CONSULTANT's Proposal, will be the people to perform the tasks identified therein.
19 CONSULTANT will not substitute other personnel or engage any contractors to work on
20 any tasks identified herein without prior written notice to COUNTY.

21 **6.11.** CONSULTANT understands that COUNTY considers the representations made herein
22 to be material and would not enter into this Agreement with CONSULTANT if such
23 representations were not made.

24 **7. TERM OF AGREEMENT.**

25 This Agreement shall commence on the date first written above and shall remain in effect until
26 the services provided as outlined in Section 4, ("DESCRIPTION OF WORK"), have been completed,
27 unless otherwise terminated as provided for in this Agreement.

28 **8. COMPENSATION.**

1 **8.1.** The total compensation payable under this Agreement shall not exceed **[amount]** unless
2 otherwise previously agreed to in writing by COUNTY, and shall be broken down as
3 follows:

4 **8.1.1.** [Cost Proposal]

5 **8.2.** The fee for any additional services required by COUNTY will be computed either on a
6 negotiated lump sum basis or upon actual hours and expenses incurred by
7 CONSULTANT and based on CONSULTANT's current standard rates as set forth in the
8 Proposal. Additional services or costs will not be paid without a prior written agreement
9 between the Parties.

10 **8.3.** Except as provided under Paragraphs 8.1 and 8.2, COUNTY shall not be responsible to
11 pay CONSULTANT any compensation, out of pocket expenses, fees, reimbursement of
12 expenses or other remuneration.

13 **9. PAYMENT.**

14 **9.1.** CONSULTANT shall bill COUNTY on a time and material basis as set forth in **Exhibit**
15 **“B.”** COUNTY shall pay CONSULTANT for completed and approved services upon
16 presentation of its itemized billing.

17 **9.2.** COUNTY shall have the right to retain five percent (5%) of the total of amount of each
18 invoice, not to exceed five percent (5%) of the total compensation amount of the completed
19 project. “Completion of the Project” is when the work to be performed has been completed
20 in accordance with this Agreement, as determined by COUNTY, and all subcontractors, if
21 any, have been paid in full by CONSULTANT. Upon completion of the Project
22 CONSULTANT shall bill COUNTY the retention for payment by COUNTY.

23 **10. METHOD OF PAYMENT.**

24 CONSULTANT shall at any time prior to the fifteenth (15th) day of any month, submit to COUNTY
25 a written claim for compensation for services performed. The claim shall be in a format approved by
26 COUNTY. No payment shall be made by COUNTY prior to the claims being approved in writing by
27 COUNTY's Contract Manager or his/her designee. CONSULTANT may expect to receive payment within
28 a reasonable time thereafter and in any event in the normal course of business within thirty (30) days after

1 the claim is submitted.

2 **11. TIME FOR COMPLETION OF THE WORK.**

3 The Parties agree that time is of the essence in the performance of this Agreement. Program
4 scheduling shall be as described in Exhibits unless revisions are approved by both COUNTY's Contract
5 Manager and CONSULTANT's Contract Manager. Time extensions may be allowed for delays caused
6 by COUNTY, other governmental agencies or factors not directly brought about by the negligence or
7 lack of due care on the part of CONSULTANT.

8 **12. MAINTENANCE AND ACCESS OF BOOKS AND RECORDS.**

9 **12.1.** CONSULTANT shall maintain books, records, documents, reports and other materials
10 developed under this Agreement as follows:

11 **12.2.** CONSULTANT shall maintain all ledgers, books of accounts, invoices, vouchers,
12 canceled checks, and other records relating to CONSULTANT's charges for services or
13 expenditures and disbursements charged to COUNTY for a minimum period of three (3)
14 years, or for any longer period required by law, from the date of final payment to
15 CONSULTANT pursuant to this Agreement.

16 **12.3.** CONSULTANT shall maintain all reports, documents, and records, which demonstrate
17 performance under this Agreement for a minimum period of five (5) years, or for any
18 longer period required by law, from the date of termination or completion of this
19 Agreement.

20 **12.4.** Any records or documents required to be maintained by CONSULTANT pursuant to this
21 Agreement shall be made available to COUNTY for inspection or audit at any time during
22 CONSULTANT's regular business hours provided that COUNTY provides
23 CONSULTANT with seven (7) days advanced written or e-mail notice. Copies of such
24 documents shall, at no cost to COUNTY, be provided to COUNTY for inspection at
25 CONSULTANT's address indicated for receipt of notices under this Agreement.

26 **13. SUSPENSION OF AGREEMENT.**

27 COUNTY's Contract Manager shall have the authority to suspend this Agreement, in whole or
28 in part, for such period as deemed necessary due to unfavorable conditions or to the failure on the part

1 of CONSULTANT to perform any provision of this Agreement. CONSULTANT will be paid the
2 compensation due and payable to the date of suspension.

3 **14. TERMINATION.**

4 COUNTY retains the right to terminate this Agreement for any reason by notifying
5 CONSULTANT in writing twenty (20) days prior to termination and by paying the compensation due
6 and payable to the date of termination; provided, however, if this Agreement is terminated for fault of
7 CONSULTANT, COUNTY shall be obligated to compensate CONSULTANT only for that portion of
8 CONSULTANT's services which are of benefit to COUNTY. Said compensation is to be arrived at by
9 mutual agreement between COUNTY and CONSULTANT; should the parties fail to agree on said
10 compensation, an independent arbitrator shall be appointed and the decision of the arbitrator shall be
11 binding upon the parties.

12 **15. INSPECTION.**

13 CONSULTANT shall furnish COUNTY with every reasonable opportunity for COUNTY to
14 ascertain that the services of CONSULTANT are being performed in accordance with the requirements
15 and intentions of this Agreement. All work done and materials furnished, if any, shall be subject to
16 COUNTY's Contract Manager's inspection and approval. The inspection of such work shall not relieve
17 CONSULTANT of any of its obligations to fulfill its Agreement as prescribed.

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19 **16. OWNERSHIP OF MATERIALS.**

20 All original drawings, videotapes, studies, sketches, computations, reports, information, data and
21 other materials given to or prepared or assembled by or in the possession of CONSULTANT pursuant
22 to this Agreement shall become the permanent property of COUNTY and shall be delivered to COUNTY
23 upon demand, whether or not completed, and shall not be made available to any individual or
24 organization without the prior written approval of COUNTY.

25 **17. INTEREST OF CONSULTANT.**

26 **17.1.** CONSULTANT covenants that it presently has no interest, and shall not acquire any
27 interest, direct or indirect, financial or otherwise, which would conflict in any manner or
28 degree with the performance of the services hereunder.

1 **17.2.** CONSULTANT covenants that, in the performance of this Agreement, no sub-contractor
2 or person having such an interest shall be employed.

3 **17.3.** CONSULTANT certifies that no one who has or will have any financial interest under
4 this Agreement is an officer or employee of COUNTY.

5 **18. INDEMNIFICATION.**

6 **18.1.** CONSULTANT agrees to the fullest extent permitted by law, in accordance with the
7 limits required by California Civil Code § 2782.8, to indemnify, defend, protect and hold
8 COUNTY and its representatives, officers, directors, designees, employees, successors
9 and assigns harmless from any and all claims, expenses, liabilities, losses, causes of
10 actions, demands, losses, penalties, attorneys' fees and costs, in law or equity, of every
11 kind and nature whatsoever that arise out of, pertain to, or relate to CONSULTANT's
12 negligence, recklessness, or willful misconduct under this Agreement ("Claims"),
13 whether or not arising from the passive negligence of COUNTY, but does not include
14 Claims that are the result of the negligence, recklessness, or willful misconduct of
15 COUNTY.

16 **18.2.** In accordance with the limits required by California Civil Code § 2782.8, if applicable,
17 CONSULTANT agrees to defend with counsel acceptable to COUNTY, indemnify and
18 hold COUNTY harmless from all Claims, including but not limited to:

19 **18.2.1.** Personal injury, including but not limited to bodily injury, emotional injury,
20 sickness or disease or death to persons including but not limited to COUNTY's
21 representatives, officers, directors, designees, employees, agents, successors and
22 assigns, subcontractors and other third parties and/or damage to property of
23 anyone (including loss of use thereof) arising out of, pertaining to, or relating to
24 CONSULTANT's negligent or reckless performance of, or willful misconduct
25 surrounding, any of the terms contained in this Agreement, or anyone directly or
26 indirectly employed by CONSULTANT or anyone for whose acts
27 CONSULTANT may be liable;

28 **18.2.2.** Liability arising from injuries to CONSULTANT and/or any of

1 CONSULTANT's employees or agents arising out of, pertaining to, or relating to
2 CONSULTANT's negligent or reckless performance of, or willful misconduct
3 surrounding, any of the terms contained in this Agreement, or anyone directly or
4 indirectly employed by CONSULTANT or anyone for whose acts
5 CONSULTANT may be liable;

6 **18.2.3.** Penalties imposed upon account of the violation of any law, order, citation, rule,
7 regulation, standard, ordinance or statute caused by the negligent or reckless
8 action or inaction, or willful misconduct of CONSULTANT or anyone directly or
9 indirectly employed by CONSULTANT or anyone for whose acts
10 CONSULTANT may be liable, including but not limited to:

11 (a) Any loss of funding, penalties, fees, or other costs resulting from
12 CONSULTANT's failure to adhere to Disadvantaged Business Enterprise
13 requirements and/or goals, as determined by COUNTY or such other
14 lawful entity in charge of monitoring Disadvantaged Business Enterprise
15 compliance;

16 (a) Any loss of funding, penalties, fees, or other costs resulting from
17 CONSULTANT's failure to adhere to prevailing wage requirements, as
18 determined by COUNTY, the California Department of Industrial
19 Relations, or such other lawful entity in charge of monitoring prevailing
20 wage compliance;

21 **18.2.4.** Infringement of any patent rights which may be brought against COUNTY arising
22 out of CONSULTANT's work;

23 **18.2.5.** Any violation or infraction by CONSULTANT of any law, order, citation, rule,
24 regulation, standard, ordinance or statute in any way relating to the occupational
25 health or safety of employees; and

26 **18.2.6.** Any breach by CONSULTANT of the terms, requirements or covenants of this
27 Agreement.

28 **18.3.** These indemnification provisions shall extend to Claims occurring after this Agreement

1 is terminated, as well as while it is in force.

2 **19. INDEPENDENT CONTRACTOR.**

3 In all situations and circumstances arising out of the terms and conditions of this Agreement,
4 CONSULTANT is an independent contractor, and as an independent contractor, the following shall
5 apply:

6 **19.1.** CONSULTANT is not an employee or agent of COUNTY and is only responsible for the
7 requirements and results specified by this Agreement or any other agreement.

8 **19.2.** CONSULTANT shall be responsible to COUNTY only for the requirements and results
9 specified by this Agreement and except as specifically provided in this Agreement, shall
10 not be subject to COUNTY's control with respect to the physical actions or activities of
11 CONSULTANT in fulfillment of the requirements of this Agreement.

12 **19.3.** CONSULTANT is not, and shall not be, entitled to receive from, or through, COUNTY,
13 and COUNTY shall not provide, or be obligated to provide, CONSULTANT with
14 Workers' Compensation coverage or any other type of employment or worker insurance
15 or benefit coverage required or provided by any Federal, State or local law or regulation
16 for, or normally afforded to, an employee of COUNTY.

17 **19.4.** CONSULTANT shall not be entitled to have COUNTY withhold or pay, and COUNTY
18 shall not withhold or pay, on behalf of CONSULTANT, any tax or money relating to the
19 Social Security Old Age Pension Program, Social Security Disability Program, or any
20 other type of pension, annuity, or disability program required or provided by any federal,
21 State or local law or regulation.

22 **19.5.** CONSULTANT shall not be entitled to participate in, nor receive any benefit from, or
23 make any claim against any COUNTY fringe program, including, but not limited to,
24 COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan,
25 or any other type of benefit program, plan, or coverage designated for, provided to, or
26 offered to COUNTY's employees.

27 **19.6.** COUNTY shall not withhold or pay, on behalf of CONSULTANT, any Federal, State, or
28 local tax, including, but not limited to, any personal income tax, owed by