

COUNTY OF KERN
DEPARTMENT OF PUBLIC WORKS

REQUEST FOR QUALIFICATIONS

To provide Engineering & Survey Services for
The Rexland Acres Sewer Expansion Project

DATE DUE May 29, 2025

TIME DUE Before 11:00 a.m.

COUNTY OF KERN

DEPARTMENT OF PUBLIC WORKS

**Request for Qualifications to Provide: Engineering & Surveying Services for the
Rexland Acres Sewer Expansion Project**

The County of Kern is issuing this Request for Qualifications (RFQ) to qualified firms who can provide Engineering & Surveying Services for the Rexland Acres Sewer Expansion Project. The consultant must show the ability to submit clear, concise and accurate reports, surveys and proposals.

The County will review responses to this RFQ and anticipates ranking the firms based on the firm's Statement of Qualifications (SOQ), experience, and history of performance using predetermined selection criteria.

The following contains a general outline of the Scope of Work that this project requires. It is anticipated that the final scope of work will be a product created through the negotiation process, with changes based upon the professional input from the selected consultant.

Consultants are specifically directed not to contact any County personnel, other than the Contact Person indicated below, for any purpose related to this RFQ. **Unauthorized contact of any County personnel may be cause for rejection of a consultant's SOQ.**

All inquiries concerning this RFQ should be directed to the following Contact Person:

Kerri Paulson
Contract Specialist
Kern County Public Works Department
2700 M Street, STE 400, Bakersfield, CA 93301
(661) 862-8705
pw-financecontracts@kerncounty.com

Envelopes/packages containing the SOQs are to be marked:

SOQ: “RFQ Response for Executive Coaching & Training Services” and **delivered to:**

Kern County General Services Division
1115 Truxtun Ave., 3rd Floor
Bakersfield, CA 93301
Telephone (661) 868-3000

Projected Timetable

The following dates are set forth for information and planning purposes only. These dates may be changed by County upon notice to prospective consultants:

Issuance Date.....Thursday, May 1, 2025
RFQ inquiries from responding firms.....Thursday, May 15, 2025
County’s response to RFQ inquiries.....Thursday, May 22, 2025
Statement of Qualifications Due Date.....Thursday, May 29, 2025
Statement of Qualifications Due Time.....Before 11:00 a.m.

*Postmark date will NOT constitute timely delivery. Responses received after the above time **WILL NOT** be considered. Consultants are solely responsible for ensuring timely receipt of their SOQs.*

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I. GENERAL INFORMATION

A. Request for Qualifications/Rules for Competition

The competitive method used for this solicitation is known as a 'Request for Qualifications' (RFQ). Firms shall be ranked and selected according to their Statement of Qualifications (SOQ).

B. Requests for Additional information and site visits

Inquiries regarding the RFQ shall be made in the following way:

By mail to:

County of Kern

Public Works Department

Attn: Kerri Paulson

2700 M Street, STE 400, Bakersfield, CA 93301

pw-financecontracts@kerncounty.com

Any inquiries shall be accepted no later than fourteen (14) working days prior to the RFQ due date. Written responses to the inquiries shall be issued no later than seven (7) calendar days prior to the RFQ due date.

C. Statement of Qualifications (SOQ)

Response to this solicitation will be in the form of a Statement of Qualifications according to the work described in section E below and the attached Exhibit A. The SOQ shall document the firm's qualifications as they apply to the Scope of Work found in Exhibit A.

The County will evaluate all responses using the evaluation criteria stated in Section F; sub-section 3 paragraph h below-. The selection panel will consist of representatives from various County departments associated with or having expertise relating to the project. Composition of the selection panel is subject to change at the sole discretion of the County. Firms will be ranked in numerical order based on the scoring of the firm in relation to the evaluation criteria.

D. Project Background and Description

The Kern County Public Works Department is responsible for a wide range of services related to public infrastructure and facilities in Kern County. The department is responsible for planning, design, construction, and maintenance of roads and bridges throughout the County; engineering and surveying services; management of traffic signals and ensuring the safety and efficient traffic flow; operation of maintenance of landfill sites for waste disposals; promoting recycling and managing recycling facilities; overseeing wastewater treatment and management; provisions of public transit services. The services required by the Kern Sanitation Authority Division will include: Project Administration, Basis of Design Memorandum, Topographic Survey, Design Phase Services, Bidding Phase Services, and Construction Phase Services. This project is California State Funded through the Clean Water Construction Grant with the California State Water Resources Control Board.

E. Consultant Scope of Work

The following is a general outline of the Scope of Work that this project requires. It is anticipated that the final scope of work will be a product created through the negotiation process with changes based upon the professional input from the selected consultant.

The successful consultant(s) will provide Engineering & Survey Services for the Rexland Acres Sewer Expansion Project. Attached as Exhibit A is the detailed scope of work for this request for qualifications.

F. Statement of Qualifications Requirements and Format

In responding to this Request for Qualifications, the responding firm is expected to demonstrate knowledge, experience and ability to perform the scope of work and provide the services being requested. If the responding firm makes no response on an item, the evaluators will assume that the firm has no expertise in that area.

Cover must be titled: Statement of Qualifications for Engineering & Survey Services for the Rexland Acres Sewer Expansion Project.

1. General

a. The Statement (SOQ) shall be concise, well organized and demonstrate an understanding of the Scope of Services. The SOQ shall be limited to 35 one-sided pages (8 1/2 inches X 11 inches), inclusive of resumes, graphics, forms, photographs, dividers, front and back covers, cover letter, etc. Type size and margins for text pages should be in keeping with accepted standard formats for desktop publishing and processing.

b. The Statement (SOQ) will be evaluated in accordance with the required services indicated above and in the attached Exhibit A.

2. Content

Elements of Statements submitted in response to this RFQ shall be in the following order and shall include:

a. Executive Summary

Include a 1-2 page overview of the entire Statement of Qualifications describing its most important elements.

b. Identification of the Project Team

- Legal name and address of company

- Legal form of company (partnership, corporation, joint venture, etc.). If joint venture, identify the members of the joint venture

and provide all information required within this section for each member. Identify if the firm is the primary corporation or a subsidiary and, if a subsidiary, of what parent firm.

- Address(es) of office(s) working on the project.

- Name, title, address, email and telephone number of the person to contact concerning the submittal.

c. Experience and Technical Competence

The consultant shall describe his or her experience in completing similar consulting efforts. Identify the duration of time the firm has conducted business and the duration of time the firm has been performing services similar to those solicited under this RFQ.

- The consultant shall list five (5) successful projects of a similar nature completed in the last ten years - Limit: one page per project.

The name of the client, project manager, client references, telephone numbers, the type of work performed, and the value of the consulting contracts shall be included.

- Provide a matrix referencing work performed relative to projects listed indicating key personnel responsible for performance and the extent of their involvement in the project they are listed under. Differentiate which work was performed by the responding firm, and which work was performed by the sub-consultants, if sub-consultants are proposed.

- Describe in detail, work the firm has directly performed on a maximum of four projects that shows a demonstrated ability to meet internal and project deadlines, budget constraints, major milestones and overall project schedules.

- Describe any litigation involvement in the last five years. List all publicly recorded legal actions stemming from performance of professional responsibilities in which the firm or individuals assigned to this project have been named (even if actions occurred under the employment of others). Specifically describe the outcome of all actions or declare the current status if litigation is pending.

d. Methods Proposed to Accomplish the Work

- Describe the operational/organizational approach of the firm to fulfill the scope of work and the goals of the project.

- Outline the basic technical procedures and the managerial approach which the project team leadership will adopt to incorporate these methods into the overall project effort.

- Provide assurance that adequate staffing is available to provide the services efficiently and in a timely fashion.

- Firms are encouraged to present suggestions that they believe will simplify the project and result in lower costs in the performance of the work.

e. Knowledge and Understanding of the Local Environment

- Describe the project team’s experience working in the local environment. The environment may be defined as the County’s, other similar local agencies, and the State’s policies, practices, design criteria and standards which will be drawn upon to accomplish the project.

- The consultant shall describe the local presence it has established for maintaining communication between the County’s Project Manager and staff.

f. Project Organization and Key Personnel

The written SOQ must include a discussion of the consultant’s staffing plan and level of personnel to be involved, their qualifications, experience, resumes, roles, and the name of the individual who will be overall in charge and responsible for coordination with the County.

- Indicate the role and responsibility of the prime consultant and all sub-consultants. Describe the ability of the firm to provide staffing continuity throughout the duration of the project.

- If applicable, indicate how local firms are being utilized to ensure a strong understanding of local laws, ordinances, regulations, policies, requirements and permitting.

- The County’s evaluation of the SOQ will consider the consultant’s entire team. Once proposed, no changes in the team composition will be allowed without prior written approval of the County. Sub-consultant letters of commitment may be required.

- Identify proposed sub-consultants (if any) which will be retained to perform specified items of work listed in the Scope of Services.

g. Schedule of Fees

The County has budgeted \$527,000 for this planning effort.

The actual fee will be negotiated with the selected firm(s). In the event that a fee for the required services cannot be negotiated with the selected firm(s), the County reserves the right to discontinue negotiations and begin negotiations with the next ranked firm(s).

The SOQ must include a “schedule of fees” which lists each personnel classification that will work on the project, and the hourly rate charged for

each classification, including any sub-consultants. The negotiated fee will be based upon the number of hours each personnel classification works on the required services. It will be the responsibility of the consultant to outline an efficient schedule to accomplish the required services.

h. Exceptions to this Request for Qualifications

The consultant shall certify whether or not it takes any exceptions to this RFQ, including, but not limited to, the sample Standard Professional Services Contract, which is attached as Exhibit “B”. Any and all such exceptions must be clearly identified in the SOQ. The identification of significant exceptions in a SOQ, as determined in the sole discretion of the County, may be cause for rejection of the consultant’s SOQ.

3. **Selection Process**

a. All SOQ’s received by the specified deadline will be reviewed by a Consultant Selection Committee. Each member of the Committee will evaluate each of the Statement of Qualifications according to the criteria stated in sub-paragraph h below.

b. Based upon the SOQ submitted, the Committee may select a short list of firms qualified for this project to participate in oral interviews.

c. Upon the SOQ and any oral interview, the Committee will rank the finalists as to qualifications. The top ranked firm(s) will be the selected firm(s). The County may enter into contracts with more than one qualified firm. However, this SOQ will result in one contract awarded to the top ranked firm.

d. Consultants are advised that the County, at its option, may award a contract strictly on the basis of the SOQ, and not create a short list of firms or conduct oral interviews.

e. The Committee, or a representative, will enter into negotiations with the selected firm(s). The negotiations will cover: scope of work, contract schedule, contract terms and conditions, technical specifications, and fees. If the Committee or representative is unable to reach an acceptable agreement with the selected firm(s), the negotiations will be terminated, negotiations with the next ranked firm(s) will be initiated, or a new procurement process will be initiated with a revised scope of work.

f. After negotiating a proposed agreement, the County department will recommend to the Board of Supervisors that the County enter into the proposed agreement(s) with the selected firm(s), but the Board is not bound to accept the recommendation or approve the proposed agreement(s).

g. If one or more of the consultants is a local vendor as defined herein, said consultant(s) shall be entitled to a local vendor preference as herein described, provided: (i) said consultant(s) achieved a score of at least seventy percent (70%) during the initial scoring phase by the Selection Committee; and (ii) they were included in the short list of consultants for further consideration by the Selection Committee, if the Selection Committee elected to create a short list of SOQ's.

All local vendors meeting the above stated criteria shall have their final evaluation score increased by one rank for purposes of determining the Selection Committee's final selection for recommendation to the Board of Supervisors.

A local vendor is defined as a consultant who:

- 1) Has maintained a local office address within Kern County for the six months immediately prior to the issuance date of the RFQ; and
- 2) Employs at least one (1) full-time or two (2) part-time employees whose primary residence is located within Kern County, or if the business has no employees shall be at least fifty percent (50%) owned by one or more persons whose primary residence is located within Kern County.
- 3) Will credit all sales taxes generated pursuant to the contract resulting from this RFP to its business location in Kern County.

This local vendor preference shall not apply to any contracts funded in whole or in part with federal or state funds which do not allow the use of local preferences, or any other contracts which are statutorily or otherwise precluded from the use of local preferences during the selection process.

h. The following is a list of general criteria that may be used by the Selection Committee in making its selection(s). **Please note that the Selection Committee may consider any information they deem relevant in making a selection(s), and may give each of the criteria considered as little or as much weight as they consider appropriate.**

- 1) Project Understanding:
 - a) Comprehension of the Scope of Services
 - b) Awareness of the County's needs
 - c) Familiarity with the project
 - d) Overall interest in the project
- 2) Operational/Organizational approach of the responding firm to fulfill the scope of work and the goals of the project.
 - a) Capability of developing innovative or advanced techniques.
 - b) Stature in industry of consultant.

- 3) Experience:
 - a) Familiarity with scope of work required.
 - b) Relevant technical experience
 - c) Relevant projects completed
 - d) Past performance on related assignments
 - 4) Financial Responsibility, Budgeting, and Scheduling:
 - a) Outline of project schedule
 - b) Cost control techniques
 - c) On time/within budget
 - d) Ability to complete the project on time
 - 5) Client references.
 - 6) Project Team and Staffing Qualifications:
 - a) A combination of experience, education, and background in undertaking similar type projects.
 - b) Level of involvement by firm's principals
 - 7) Any other factors the Selection Committee deems relevant.
- i. The County reserves the right to reject any and all SOQ's and to waive informalities and irregularities in any SOQ received. Absence of required information may render a SOQ non-responsive, in the sole discretion of the County, resulting in rejection of the SOQ.
 - j. The County may, during the evaluation process, request from any consultant additional information which the County deems necessary to determine the consultant's ability to perform the required services. If such information is requested, the consultant shall be permitted five (5) working days to submit the information requested.
 - k. An error in the SOQ may cause the rejection of that SOQ; however, the County may, in its sole discretion, retain the SOQ and make any corrections it deems appropriate. In determining if a correction will be made, the County will consider the conformance of the SOQ to the format and content required by the RFQ, and any unusual complexity of the format and content required by the RFQ. If the consultant's intent is clearly established based on review of the complete SOQ submittal, the County may, at its sole option, correct an error based on that established content. The County may also correct obvious clerical errors. The County may also request clarification from a consultant on any item in a SOQ that County believes to be in error, and make corrections accordingly.
 - l. The County reserves the right to select the SOQ which in its sole judgment best meets the needs of the County. The recommendation by the Selection Committee, and the final selection of a consultant by the Board of Supervisors, shall be based on any information and criteria the Selection Committee and Board consider relevant, which may include criteria not listed in sub-paragraph h above. **The schedule of costs is not a criteria for the initial selection(s) by the Selection Committee.**

- m. All firms responding to this RFQ will be notified of their selection or non-selection in writing after the Selection Committee has completed the selection process. All consultants shall have seven days from the date of the notice to submit any additional information **not previously submitted** to the County for final consideration.
- n. County employees will not participate in the selection process when those employees have a relationship with a person or business entity submitting a SOQ which would subject those employees to the prohibition of Section 87100 of the Government Code. Any person or business entity submitting a SOQ who has such a relationship with a County employee who may be involved in the selection process shall advise the County of the name of the County employee in the SOQ.
- o. Any person or business entity which engages in practices which might result in unlawful activity relating to the selection process including, but not limited to, kickbacks or other unlawful consideration paid to County employees, will be disqualified from the selection process.
- p. The process, procedures and evaluation criteria used by County staff and the Selection Committee in developing and issuing this RFQ and evaluating the SOQ's received for purposes of completing the selection process shall be determined in the sole discretion of the County. Potential consultants shall have no rights whatsoever regarding the processes and procedures used by the County relating to this RFQ or the manner in which a consultant is selected by either the Selection Committee or the Board of Supervisors, provided their decisions are not arbitrary and capricious, and there is some reasonable basis for the selection(s) made.

G. Solicitation Caveat

The issuance of this solicitation does not constitute an award commitment on the part of the County, and the County shall not pay for costs incurred in the preparation or submission of a SOQ. **The County reserves the right to reject any or all SOQ's or portions thereof if the County determines that it is in the best interest of the County to do so.**

Failure to furnish all information requested or to follow the format requested herein, or the submission of false information, may disqualify the consultant, in the sole discretion of the County. The County may waive **any** deviation in a SOQ. The County's waiver of a deviation shall in no way modify the RFQ requirements nor excuse the successful consultant from full compliance with any resultant agreement requirements or obligations.

H. Time

Time and the time limits stated in this RFQ are of the essence of this Request for Qualifications.

I. Form of Agreement

No agreement with the County is in effect until a contract has been signed by both parties. Attached to this RFQ as Exhibit "B" is a sample agreement which is in substantially the form the successful consultant will be expected to sign. The final agreement may include the contents of this RFQ, any addenda to this RFQ, portions of the successful consultant's SOQ and any other modifications determined by the County to be necessary prior to its execution by the parties.

Until such time as the Evaluation Committee has completed its deliberative process and the matter has been set for consideration before the Board of Supervisors, the agreement and all documents and materials relating thereto, the negotiation and execution thereof, including, without limitation, the existence of the Agreement and the negotiations taking place between the parties, shall be confidential.

The sample agreement included in this RFQ is for informational purposes and should not be returned with a SOQ; however, the SOQ shall include a statement that the consultant has reviewed the sample agreement and either i) will agree to the terms contained therein if selected, or ii) indicate those specific provisions of the sample agreement to which the consultant takes exception and why. Raising of significant exceptions in a SOQ, as determined in the sole discretion of the County, may be cause for rejection of the consultant's SOQ.

The selected consultant(s) will be required to execute an agreement with the County for the services requested within 45 days of the award. If agreement on the terms and conditions of the contract that are acceptable to the County including, but not limited to, compensation, cannot be achieved within that timeframe, the County reserves the right to continue negotiations or to award the bid to another consultant and begin negotiations with that consultant.

Consultant must identify and provide contact information in their SOQ of the individual within their organization who is authorized to negotiate the terms and conditions of any agreement between consultant and County.

J. Modifications to Scope of Work

In the event that sufficient funds do not become available to complete all the services identified in this RFQ, the scope of services may be amended, as determined in the sole discretion of the County. The County may also, from time-to-time, request changes in and/or additions to the services to be provided by the successful consultant. Such changes, including any increase or decrease in compensation, which are mutually agreed upon by and between the County and the successful consultant, shall be incorporated into the contract prior to execution of the contract, and by written amendments thereto after execution.

K. News Releases

News releases pertaining to any award resulting from this RFQ may not be made without prior written approval of the Director of Public Works.

L. Payment Schedule

Periodic payments will be made to the consultant upon submission of an invoice, based on a payment schedule to be developed and included in the final agreement for services.

M. Statutes and Rules

The terms and conditions of this RFQ, and the resulting consulting services and activities performed by the successful consultant, shall conform to all applicable statutes, rules and regulations of the federal government, the State of California and the County of Kern.

N. Background Review

The County reserves the right to conduct a background inquiry of each consultant that may include collection of appropriate criminal history information, contractual and business associations and practices, employment histories, reputation in the business community and financial condition. By submitting a SOQ to the County the consultant consents to such an inquiry and agrees to make available to the County such books and records the County deems necessary to conduct the review.

II. SOO INFORMATION AND REQUIREMENTS

A. General Instructions

To receive consideration, SOQ's shall be made in accordance with the following general instructions:

1. The completed SOQ shall be without alterations or erasures. Errors may be crossed out and corrections printed in ink or typed adjacent, and must be initialed in ink by an authorized representative of the consultant.
2. No oral, telephonic, telegraphic, e-mailed or faxed SOQ's will be considered.
3. The submission of a SOQ shall be an indication that the consultant has investigated and satisfied him/herself as to the selection process to be used by the County, the conditions to be encountered, the character, quality and scope of the work to be performed, and the requirements of the County.
4. All SOQ's shall remain firm for one hundred and eighty (180) days from the SOQ submission deadline.

B. Business Address

Consultants shall furnish their business street address. Any communications directed either to the address so given, or to the address listed on the sealed SOQ container, and deposited in the U.S. Postal Service by Certified Mail, shall constitute a legal service thereof upon the consultant.

C. Corrections and Addenda

If a consultant discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFQ, the consultant shall immediately notify the Contact Person of such error in writing and request clarification or modification of the document. Modifications will be made by addenda as indicated below to all parties in receipt of this RFQ.

If a consultant fails to notify the Contact Person prior to the date fixed for submission of SOQ's of a known error in the RFQ, or an error that reasonably should have been known, the consultant shall submit a SOQ at their own risk, and if the consultant is awarded a contract they shall not be entitled to additional compensation or time by reason of the error or its subsequent correction.

Addenda issued by the County interpreting or changing any of the items in this RFQ, including all modifications thereof, shall be incorporated in the SOQ. The consultant shall sign and date the Addenda Cover Sheet and submit same with the SOQ (or deliver them to the Public Works Department, 2700 M Street, STE 400, Bakersfield CA 93301, attn to: Kerri Paulson, if the consultant has previously submitted a SOQ to the department).

Any oral communication by the County's designated Contact Person or any other County staff member concerning this RFQ is not binding on the County and shall in no way modify this RFQ or the obligations of the County or any consultants.

D. SOQ SUBMITTAL REQUIREMENTS

Six copies of the SOQ shall be submitted to the address indicated below. SOQ's submitted by email or facsimile are not acceptable and will not be considered.

Kern County General Services Division
1115 Truxtun Ave., 3rd Floor
Bakersfield, CA 93301
Telephone (661) 868-3000

SOQ's may be delivered in person, by courier service or by mail to the address indicated above. ALL SOQ's MUST BE SEALED AND RECEIVED BEFORE 11:00 A.M. on Thursday, May 29, 2025, at the above office and address. SOQ's submitted after the above deadline will not be accepted. It is strongly suggested that any consultants intending to hand deliver a SOQ on the last day for submission arrive at the General Services Division third floor main lobby at least ten (10) minutes prior to the SOQ receipt deadline to receive a "test" time stamp

to validate the official current time. The time stamp clock in the main lobby of General Services will be the official time. Any SOQ received at or after 11:00 a.m. will be returned unopened.

Only one (1) SOQ may be submitted from each consultant. For purposes of this RFQ, a consultant is defined to include a parent corporation of the consultant and any other subsidiary of that parent corporation. If a consultant submits more than one (1) SOQ, all SOQs from that consultant shall be rejected.

SOQ's are not publicly opened.

E. Withdrawal and Submission of Modified SOQ

A consultant may withdraw a SOQ at any time prior to the submission deadline by submitting a written notification of withdrawal signed by the consultant or his/her authorized agent. The consultant must, in person, retrieve the entire sealed submission package. Another SOQ may be submitted prior to the deadline. A SOQ may not be changed after the designated deadline for submission of SOQ's.

F. Confidential Information:

Proposers are cautioned that because the County is a public entity, materials designated as "confidential" may nevertheless be subject to disclosure. Proposers are advised that the County does not wish to receive confidential or proprietary information and that proposers are not to supply such information except when it is absolutely necessary.

IF CONFIDENTIAL INFORMATION IS SUBMITTED:

1. ALL CONFIDENTIAL INFORMATION MUST BE STAMPED WITH A "CONFIDENTIAL" WATERMARK AND PLACED IN A SEPARATE TABBED SECTION #9 OF THE RFP MARKED "CONFIDENTIAL".
2. Any documents labeled "CONFIDENTIAL" shall include the following statement signed and placed on the first page of the CONFIDENTIAL material:

“ _____ (legal name of proposer) shall indemnify, defend and hold harmless the County of Kern, its officers, agents and employees from and against any request, action or proceeding of any nature and any damages or liability of any nature, specifically including attorneys' fees awarded under the California Public Records Act (Government Code §6250 et seq.) arising out of, concerning or in any way involving any materials or information in this Proposal that (legal name of proposer) has labeled as confidential, proprietary or otherwise not subject to disclosure as a public record.”

By: _____ Date: _____

Confidential information as discussed in this section II.D.9 may include:

:

Technical Information

- (i) Any trade secret, know-how, invention, software program, application, documentation, schematic, procedure, contract, information, knowledge, data, process, technique, design, drawing, program, formula or test data, work in progress, engineering, manufacturing, marketing, financial, sales, supplier, customer, employee, investor, or business information;
- (ii) Any non-public business information, including, without limitation, personnel data; correspondence with governmental agencies; historical customer information and data; historical cost information such as budgets and operating expenses and capital costs; and projected capital additions and operating cost information;

Financial Information

- (i) financial statements, business plans, strategic plans, proprietary market information, analyses, compilations and any other strategic, competitively sensitive or proprietary information shared between the parties as a result of the discussions contemplated by this Agreement;

Business Development-Related Information

- (i) All trade secrets or proprietary information protected as intellectual property that relates to the business of the Vendor and is not generally available to the public, or generally known in the industry;
- (ii) Customers' identities and requirements, customer lists, suppliers' identities and products, pricing information, product price discount information, manufacturing processes and procedures, new product research, financial information not generally available to the public; and

Any techniques, know how, processes or combinations thereof, or compilations of information, records and specifications, utilized or owned by the vendor regarding business development, marketing, pricing, business methods, strategies, financial or other analyses, policies or business opportunities.

G. Disposition of SOQ's and Proprietary Data

All materials submitted in response to this RFQ become the property of the County. Any and all SOQ's received by the County shall be subject to public disclosure and inspection, except to the extent the consultant designates trade

secrets or other proprietary data to be confidential, after the Selection Committee has completed its deliberative process and either the consultant has been informed that they are not the vendor selected by the Selection Committee, or the matter has been set for consideration before the Board of Supervisors, whichever comes first.

Material designated as proprietary or confidential shall accompany the SOQ and each page shall be clearly marked and readily separable from the SOQ in order to facilitate public inspection of the non-confidential portion of the SOQ. Prices, makes and models or catalog numbers of the items offered, deliverables, and terms of payment shall be publicly available regardless of any designation to the contrary. The County will endeavor to restrict distribution of material designated as confidential or proprietary to only those individuals involved in the review and analysis of the SOQ.

Exhibit A

I. BACKGROUND & OBJECTIVES

The Kern County Public Works Department is in need of a qualified professional consultant to provide topographical surveying and design for an upcoming septic-to-sewer project. Our department intends to engage professional consultants to provide land surveying, utility investigations, engineering design work and construction plans & specifications. In addition, we will require assistance with bidding documents and requests for information/clarification of design, engineer's construction cost estimate, electronic survey data, and as-built plans creation.

In 2008, the County received funds from various sources to complete a septic-to-sewer project for the Rexland Acres community. By the end of 2010, the construction of sewer mains, laterals and the abandonment of septic tanks were completed along with the creation of a lift station and force main to Kern Sanitation Authority. Unfortunately, due to the lack of funding at the time, the original project's scope was reduced to limit the tax burden on the residents. A preliminary engineering report has been completed by an engineering consultant in the past and was last updated in 2022.

The project's scope is to expand the existing sewer collections system for the Rexland Acres community to the full extent of the community's boundaries. This community is bound by East Pacheco Road to the North, the Central Branch Kern Island Canal to the East, the County boundary (southern boundaries of Tracts Nos. 1798, 2222, 2307) to the South, and South Union Avenue to the West. It is intended the sewer mains will be extended, to reach both residents and commercial/industrial properties. This extension will allow these properties to run on connected sewer and their septic tanks be abandoned as part of the project.

This specific project is eligible for State reimbursement; therefore, Public Works and the successful consultant must be in compliance with provisions of the Davis-Bacon and Related Acts (DBRA), American Iron & Steel requirement(s), Disadvantaged Business Enterprise (DBE), and all related standard State (generally Caltrans) & County contract requirements.

The Project shall comply with standard County Contract requirements as they relate to project contract specifications and plans creation (boiler plates and templates). Projects funded by the State Division of Financial Assistance (DFA) and as applicable to the State Revolving Fund (SRF) are required to include forms and language that will be provided to the consultant to draft the specifications. State DFA and Central Valley Regional Water Quality Control Board will review Final Plans & Specifications and low-bid award to eventual Project's Contractor.

As part of the submittal and requirement to the State DFA based on funding, the (Final) Design including all deliverables must be completed and approved by December 20, 2025. The Project's Construction must be completed prior to December 2026.

II. ESTIMATED VALUE/COST

The final cost of this service will be determined by the complexity and scope of work described herein. The overall duration of the agreement will not exceed three years.

III. SCOPE OF WORK

The following scope of services describes the specific tasks to be performed by the Consultant. If the Consultant believes that the project can be enhanced in any way by the addition of other tasks or the deletion of any specified tasks, such information should be included in the proposal.

1. Project Management and Coordination
 - Project coordination, monitoring and administration.
 - Attend project kickoff meeting, progress meetings, project coordination meetings, design review meetings, pre-bid meeting, and pre-construction meeting.
 - Monitor task budgets and project schedule.
 - Perform quality assurance/quality control (QA/QC) activities.
 - Prepare monthly progress and cost summaries report, and invoices.
2. Site Investigation, Data Collection, Record Research
 - Review existing Preliminary Engineers Report, review existing records, review existing data including - but not limited to – geographic information system information, records, drawings, reports, maps, and other documents relevant to the limits and scope of this project.
 - Coordinate with various utilities, agencies (PG&E, AT&T, etc.) and Kern County Right-Of-Way Division requesting existing utility mapping for the pipeline locations and coordinate the relocation of utility lines and appurtenances, if any.
 - Soil/geotechnical investigation
3. Project Development
 - Perform field investigation of the alignment to determine the constructability issues and utility clearances.
 - Develop plan view of the proposed alignment
 - Establish design criteria.
 - Prepare engineer's cost estimate including options.
 - Identify any permitting agencies, if any, and its submittal requirements to successfully procure the permit.

Deliverables: Five (5) sets of the Project Development submittal (Technical Memorandum) shall be presented to the County for review. The submittal shall include design alternatives, permit requirements, design criteria, pipeline alignment analysis, summary of utilities investigation, and probable construction cost estimate. One meeting shall be scheduled with County staff to review the comments for the Project Development design submittal

4. Preliminary Design (60% Design Submittal)
 - Based on the selected alternative, the Consultant shall procure services to perform the aerial or ground surveying and mapping.

- Develop the design's Base Map which includes utilities, right-of-way, easement (if any) and lot lines.
- Develop plan sheets for the pipelines, showing existing utilities and proposed alignments at 1-inch equals 20 feet scale (may be adjusted if approved by the County).
- Identify utilities to pothole (assume 20 potholes).
- Prepare list of technical specifications and engineer's cost estimate.

Deliverables: Three (3) sets of the 60% design submittal shall be presented to the County to review. The submittal shall include conceptual design with plan view showing the pipeline alignment and existing utilities and engineer's construction cost estimate. One meeting shall be scheduled with County staff to review the comments for the 30% design submittal.

5. Initial Design Submittal (90% Design Submittal)

- Coordinate potholing activities.
- Prepare pavement restoration plans with striping for streets. Consultant will be provided the appropriate pavement treatment (overlay, slurry, cap seal, etc.).
- Prepare complete detailed plans, plan and profile drawings, general drawings, standard and technical details, pipe connection details, manhole details, technical specifications and 90% engineer's cost estimate.
- Prepare County standard front-end specifications and technical specifications (inclusive of bid schedule, measurement and payment section) and other related documents for bid.
- The 90 Design Submittal shall be considered a complete design submittal.

Deliverables: Three (3) sets of the 90% design submittal shall be presented to the County for review. The submittal shall include half-size drawings, contract documents and probable construction cost estimate. One meeting shall be scheduled with County staff to review the comments for the 90% design submittal.

6. Final Design Submittal (100%)

- Incorporate the 90% Design Submittal Comments
- Submit one set of full-size, stamped and signed final drawings along with specifications and contract documents.
- Submit one copy of final quantity calculations and engineer's construction cost estimate.
- Submit all digital files (AutoCAD, MS Word, MS Excel, etc.) for the project.

Deliverables: One (1) set of the 100% final design submittal shall be presented to the County for bid. The submittal shall include full-size, stamped and signed final drawings, contract documents and engineer's construction cost estimate.

7. Bid and Construction Support

- Provide bidding assistance, clarifications which may include responding to questions from potential bidders, attending the pre-bid conference and job walk, assisting with preparation of addenda, and reviewing the submitted bids.
- Conduct site visits (3) during construction at appropriate stages.
- Provide submittal list, review shop drawings, change order requests, and provide written recommendations to the County.
- Review and respond to contractor's request for information (RFI) and clarifications during construction and provide written recommendations to the County.
- Participate in the final inspection and assist with punch list of deficiencies.
- Preparation and submittal of digital record drawings to the County.

Deliverables: One (1) full-size as-built plans. Provide digital copies of as-built plans in pdf and digital (AutoCAD) format.

IV. COMMUNICATIONS

Consultant will provide names and contact information of staff that will have access to real-time information regarding the status of the project. Consultant will be responsive to all project inquiries. Public Works will schedule project meetings, as necessary.

V. DELIVERABLES

See deliverables as detailed in the scope of work (Section III). Additionally, all deliverables, including payment schedule and milestones as detailed previously, are to be detailed as indicated in the Work Authorization Form.

Exhibit B

**KERN COUNTY
ENGINEERING SERVICES AGREEMENT
SCHEDULE TO MASTER TERMS AND CONDITIONS
ESA-STANDARD**

I. This **SCHEDULE** ("**Schedule**") shall be effective on _____ ("**Effective Date**") and shall terminate no later than Date ("**Termination Date**").

Kern County Department: Choose an item. ("**Responsible County Department**")

Located at: Address

Service Provider: Consultant/Contractor Name ("**Consultant**")

Located at: Address

Consultant Email for signature: Email Address

Consultant is (select one):
 Sole Proprietorship
 Incorporated in the State of State
 Other (specify) Type of Entity

II. Consultant shall provide the services and products described in **Exhibit A** ("**Services**"). This excludes travel and other expenses described in Section III. County shall compensate Consultant for those services and products in an amount not to exceed \$Dollar Amount.

III. Travel and all other expenses. Select one of the following:

County **shall not** reimburse Consultant for any travel or other expenses incurred by Consultant.
 County **shall** reimburse Consultant for all travel and/or other necessary and reasonable actual expenses incurred on behalf of County. If the reimbursable expenses include travel, the travel expenses must be reasonable and necessary, approved in advance in writing by the Responsible County Department, and shall not exceed the federal mileage rate and federal diem rate for the location of the services. County shall reimburse Consultant in an amount not to exceed \$Dollar Amount.

IV. Total Amount Payable Under Agreement (Compensation for Services/Products, Plus Travel and Other Expenses)
County shall compensate Consultant for the Services and Products (amount stated in Section II) and reimburse Consultant for expenses, including travel, if applicable (amount stated in Section III). The total amount payable under this agreement shall not exceed \$Dollar Amount (Section II + Section III).

V. Consultant shall be required to have the following insurance coverages which are marked, on the terms provided in the Master Terms and Conditions. The insurance coverages shall be in the amounts specified, unless another amount is shown (select all that apply):

Workers' Compensation: As required by California Labor Code Section 3700
 Commercial General Liability (\$1,000,000/Occurrence; \$2,000,000/Aggregate) or other amounts: \$____.
 Automobile Liability (\$1,000,000/Occurrence) or other amount: \$____.
 Professional Liability (\$1,000,000/Claim; \$2,000,000/Aggregate) or other amounts: \$____.

Note: If a lesser amount is shown, the Responsible County Department must obtain the prior written approval of the County Risk Manager.

If there are any conflicts between the terms and conditions contained in this Schedule and the Master Terms and Conditions, this Schedule shall control.

The Parties have executed this Schedule, including the Master Terms and Conditions, which constitute the Agreement, on the Effective Date.

APPROVED AS TO CONTENT:

COUNTY OF KERN

By _____
Joshua Champlin, Director

By _____
Chairman, Board of Supervisors

APPROVED AS TO FORM:
Office of the County Counsel

Consultant Name

By _____
Phillip W. Hall, Deputy

By _____
Person Signing and Title
"Consultant"

Exhibit B

EXHIBIT A SERVICES

Consultant shall provide the Services shown below for the Responsible County Department based on the following payment schedule:
(select one of the following options)

___ Consultant shall submit one invoice to County upon contract completion and acceptance of the Services by County.

___ Consultant shall invoice monthly for hours expended over the prior 30 days; County to retain 20% of all invoiced amounts until final acceptance of the Services by County.

___ Consultant shall invoice County upon the successful completion of milestones:
(insert percentages next to applicable milestones)

___ % Upon completed installation of _____

___ % Upon completed installation of _____

___ % Upon completion of training

___ % Other Milestone (describe)

___ % Other Milestone (describe)

___ % Other Milestone (describe)

___ % Other Milestone (describe)

___ % Upon contract completion and acceptance of the Services by County

___ Consultant shall invoice County as follows:

(describe in detail any payment schedule, milestone payments, percentages and retention as applicable)

1. Full description of the Services:
2. Dates and location where the Services will take place (include time schedule and/or milestone dates if appropriate):
3. If training is involved, the hours per day that are included in the training and minimum/maximum number of staff/trainees allowed to attend the training:
4. Materials, equipment, facilities, manuals, study guides, etc., will be provided as indicated to assist Consultant in provision of the Services:

By Responsible County Department:

By Consultant:

Exhibit B

KERN COUNTY
ENGINEERING SERVICES AGREEMENT
MASTER TERMS AND CONDITIONS
ESA-STANDARD

THIS AGREEMENT (“Agreement”) is entered into effective on the Effective Date shown on the attached Schedule, by and between the **COUNTY OF KERN**, a political subdivision of the State of California, as represented by the Purchasing Agent (“**County**”), with its principal location at 1115 Truxtun Avenue, 3rd Floor, Bakersfield, CA 93301, and **CONSULTANT** identified on the Schedule (“**Consultant**”). County and Consultant are individually referred to as a “**Party**” and collectively as the “**Parties.**”

RECITALS

- A.** Government Code Sections 31000 and 53060 permit the County Board of Supervisors to contract for the furnishing of special services with individuals specially trained and experienced and competent to perform those services.
- B.** The County Department identified on the Schedule as the Responsible County Department requires those services which are specified in **Exhibit A**.
- C.** County desires to engage Consultant to provide the services and Consultant, by reason of its qualifications, experience, and facilities for doing this type of work, has offered to provide the required services on the terms set forth in this Agreement.
- D.** The Purchasing Agent has been authorized by the Board of Supervisors to contract for personal/professional services in an amount not to exceed \$100,000 per contract.

AGREEMENT

- 1. Services to be Rendered.** Consultant shall provide the services and products described in **Exhibit A (“Services”)**.
- 2. Compensation to Consultant.** County shall compensate Consultant in accordance with the compensation selection(s) shown on the Schedule. No additional compensation shall be paid for secretarial, clerical support staff, overhead or any other costs incurred by Consultant by providing the Services to County.
- 3. Reimbursement Policy and Billing Requirements.** All invoices for payment shall be submitted in a form approved by County based upon the payment schedule selected on **Exhibit A**, shall contain an itemization of all costs and fees broken down monthly (including an itemization of all travel expenses incurred if applicable) and shall be stated as a cumulative total. Invoices shall be sent for review and processing to the Responsible County Department. Consultant shall also provide an informational copy to the Purchasing Agent. Payment shall be made to Consultant within 30 days of receipt and approval of the invoice by the Responsible County Department.
- 4. Term.** This term of this Agreement (“**Term**”) shall start on the Effective Date and shall terminate on the Termination Date, unless sooner terminated as provided in this Agreement.
- 5. Assignment.** Consultant shall not assign, transfer or encumber this Agreement, or any part, and Consultant shall not assign any monies due or which become due to Consultant under this Agreement, without the prior written consent of the Purchasing Agent.
- 6. Audit, Inspection and Retention of Records.** Consultant shall maintain and make available to County accurate books and records relative to the Services under this Agreement. Consultant shall permit County to audit, examine and make excerpts and transcripts from its records and to conduct audits of all invoices, materials, records of personnel or other data related to the Services under this Agreement. Consultant shall maintain its data and records in an accessible location and condition for a period of not less than three years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The State of California and/or any federal agency having an interest in the subject of this Agreement shall have the same rights as County.
- 7. Authority to Bind County.** It is understood that Consultant, in Consultant’s performance of any Services under this Agreement, except as otherwise provided in this Agreement, has no authority to bind County to any agreements or undertakings.
- 8. Indemnification.**

Exhibit B

a. **General.** Consultant shall defend, indemnify, and hold harmless County and County's board members, elected and appointed officials, officers, employees, agents, volunteers and authorized representatives ("**County Indemnified Parties**") from any losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments and costs, including attorneys' fees of County Counsel and outside counsel retained by County, expert fees, costs of staff time, and investigation costs ("**Claims**") which arise out of or relate to any act or omission of Consultant or Consultant's officers, employees, agents and subcontractors of any tier hired by Consultant to perform the Services ("**Consultant Representatives**"). This indemnification obligation shall include bodily and personal injury or death to any person; damage to any property, regardless of where located, including the property of County; and any workers' compensation Claim arising from or relating to the Services. Consultant shall defend any Claim with counsel of Consultant's choice, subject to County's written approval, and at Consultant's sole cost.

b. **Immigration Reform and Control Act.** Consultant acknowledges that Consultant and Consultant Representatives are aware of and understand the Immigration Reform and Control Act ("**IRCA**"). Consultant is and shall remain in compliance with the IRCA and shall ensure that any Consultant Representatives are and shall remain in compliance with the IRCA. In addition, Consultant shall defend, indemnify and hold harmless County and County Indemnified Parties from any Claims which arise out of or relate to any allegations that Consultant and Consultant Representatives are not authorized to work in the United States and/or any other allegations based upon alleged IRCA violations committed by Consultant or Consultant Representatives. Consultant shall defend any Claim with counsel of Consultant's choice, subject to County's written approval, and at Consultant's sole cost.

c. **Infringement Claim.** If any Claim is asserted or action or proceeding brought against County or County Indemnified Parties which alleges that all or any part of the Services in the form supplied by Consultant or County's use, infringes or misappropriates any United States or foreign patent or copyright, or any trade secret or other proprietary right, County shall give Consultant prompt written notice. Consultant shall defend and indemnify County and County Indemnified Parties from any Claims, including costs incurred by County in order to avoid entry of any default judgment or other waiver of County's rights. Consultant shall defend any Claim with counsel of Consultant's choice, subject to County's written approval, and at Consultant's sole cost. County shall cooperate fully with and may monitor Consultant in the defense of any Claim, and shall make employees available as Consultant may reasonably request with regard to the defense, subject to reimbursement by Consultant of all costs incurred by County's cooperation in the defense.

d. **Remedy of Infringement Claim.** If the Services are, in Consultant's opinion, likely to become or do become the subject of a claim of infringement or misappropriation of a United States or foreign patent, copyright, trade secret or other proprietary right, or if a temporary restraining order or other injunctive relief is entered against the use of part or all of the Services, Consultant shall within 90 days:

1. **Replace.** Promptly replace the Services with compatible, functionally equivalent and non-infringing Services;
2. **Modify.** Promptly modify the Services to make them non-infringing without materially impairing County's ability to use the Services as intended;
3. **Procure Rights.** Promptly procure the right of County to continue using the Services; or
4. **Refund.** As a last resort, if none of these alternatives is reasonably available to Consultant, and County is enjoined or otherwise precluded legally from using the Services, Consultant shall, within 120 days of the judgment or other court action, promptly refund to County all fees and costs paid for the Services, and this Agreement shall terminate. All licensed products will be disposed of as ordered by the governing court at the sole cost of Consultant or as determined by County if the court does not so direct.

e. **Modification of Services.** This indemnification does not extend to modifications or additions to the Services made by County or any third party without the prior written consent of Consultant, or to any unauthorized use of the Services by County.

f. **Survival of Indemnification Obligations.** Upon completion of this Agreement, the provisions of this Section 8 shall survive.

9. **Insurance.** Consultant, in order to protect County and County Indemnified Parties against Claims as a result of the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain the following insurance. Consultant shall not perform any Services until Consultant has obtained all insurance required under this Section 9 and the required certificates of insurance and all required endorsements have been filed with County's authorized insurance representative ("**Authorized Insurance Representative**"). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of these insurance requirements. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that the designated person is an authorized representative, and is authorized to bind the named underwriter(s) and their company to the stated coverage, limits and termination provisions. Consultant shall promptly deliver to Authorized Insurance Representative a certificate of insurance, and all required

Exhibit B

endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the Term. The certificates and endorsements shall be delivered to Authorized Insurance Representative prior to the expiration date of any policy and bear a notation evidencing payment of the premium if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any Claim by Consultant or County as an additional insured.

a. Workers' Compensation and Employer's Liability Insurance Requirement. If Consultant has employees who may perform any Services under this Agreement, Consultant shall submit written proof that Consultant is insured against liability for workers' compensation in accordance with the provisions of California Labor Code Section 3700. Consultant shall require any Consultant Representatives to provide workers' compensation for any of the Consultant Representative's employees, unless the employees are covered by the insurance carried by Consultant. If any class of employees engaged in Services is not covered by California Labor Code Section 3700, Consultant shall provide and/or require each Consultant Representative to provide adequate insurance for the coverage of employees not otherwise covered. Consultant shall also maintain employer's liability insurance with limits of \$1,000,000 for bodily injury or disease.

b. Liability Insurance Requirements.

1. Types of Liability Insurance. Consultant shall maintain in full force and effect, during the Term, the following types of liability insurance:

A. Commercial General Liability Insurance, including Contractual Liability Insurance (specifically covering the indemnification provisions of this Agreement), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of Services. The Commercial General Liability insurance shall contain no exclusions or limitations for Consultant Representatives working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by Applicable Law following termination of this Agreement. The amount of the insurance coverage required by this Agreement shall be the policy limits, which shall be no less than the amount specified on the Schedule.

B. Automobile Liability Insurance, against claims of Personal Injury (including bodily injury and death) and Property Damage covering any owned, leased, hired and non-owned vehicles used in the performance of the Services with insurance coverage equal to the policy limits, which shall be no less than the amount specified on the Schedule.

C. Professional Liability (Errors and Omissions) Insurance, for liability arising out of or related to the performance of the Services, with insurance coverage equal to the policy limits, which shall be no less than the amount specified on the Schedule.

2. Endorsements. The Commercial General Liability and Automobile Liability Insurance required in this **Section 9** shall include an endorsement naming County and County Indemnified Parties as additional insureds for liability arising out of this Agreement and any related operations. The endorsement shall be provided using one of the following three options: **(i)** on ISO form CG 20 10 11 85; or **(ii)** on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or **(iii)** on other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

3. Claims-Made Insurance. If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either **(i)** maintain the coverage for at least three years following the termination of this Agreement with coverage extending back to the Effective Date; **(ii)** purchase an extended reporting period of not less than three years following the termination of this Agreement; or **(iii)** acquire a full prior acts provision on any renewal or replacement policy.

c. Insurance Companies. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved in writing by the County Risk Manager.

d. Self-Insurance. If Consultant is, or becomes during the Term, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the required insurance coverages and endorsements. County will not accept the coverages unless the County Risk Manager determines, in its sole discretion and by written acceptance, that the coverages proposed to be provided by Consultant are equivalent to the required coverages. Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to County and must be approved in writing by the County Risk Manager.

e. Primary Insurance; Waiver of Subrogation. All insurance carried by Consultant shall be primary to and not contributing to any insurance or self-insurance maintained by County. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against County.

Exhibit B

f. **Insurance Does Not Replace Indemnification.** Maintenance of the insurance coverages in the minimum specified amounts shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of the coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the County from taking other actions as are available to it under this Agreement or under Applicable Law.

g. **Failure to Maintain Insurance.** Failure by Consultant to maintain all insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. County, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from the breach. Alternatively, County may purchase the required insurance coverage, and without further notice to Consultant, County shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by County for the insurance. If the balance of monies owed to Consultant under this Agreement is insufficient to reimburse County for the premiums and any associated costs, Consultant shall reimburse County for the premiums and pay for all costs associated with the purchase of the insurance. Any failure by County to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

h. **Cancellation of Insurance.** The insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of the Services except as otherwise stated in this Agreement. Each insurance policy supplied by Consultant shall not be terminated, suspended, voided, canceled, non-renewed or reduced in coverage or in limits except after 10 days prior written notice to Consultant in the case of non-payment of premiums, or 30 days prior written notice in all other cases. This notice requirement does not waive these insurance requirements. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, suspended, voided, canceled, reduced in coverage, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

10. **Consultant Representations.** Consultant makes the following representations, which the Parties agree are material to and form a part of the inducement for this Agreement:

a. **Expertise and Staff.** Consultant has the expertise, support staff and facilities necessary to provide the Services; and

b. **No Adverse Interests.** Consultant does not have any actual or potential interests adverse to County, nor does Consultant represent a person or firm with an interest adverse to County relating to the subject of this Agreement; and

c. **Timeliness.** Consultant shall diligently provide the Services in a timely and professional manner in accordance with the terms, covenants and conditions in this Agreement.

11. **Ownership of Documents.** All reports, documents and other items generated or gathered in the course of providing the Services are and shall remain the property of County, and shall be returned to County upon full completion of the Services or termination of this Agreement, whichever first occurs.

12. **Rights to Contracted Products.**

a. **Belong to County.** For no additional fee or charge, products developed, prepared, generated or gathered by Consultant or Consultant's Representatives under this Agreement, shall be considered creative works for hire and shall be delivered to and become the exclusive property of County and may be used by County in any way it may deem appropriate. Consultant shall have no rights in the products, except the right to use the products for the exclusive purpose of providing the Services, and Consultant shall not copy or disclose to any third party any product, except as is expressly set forth in this Agreement or by separate written agreement between the Parties. These provisions do not apply to Consultant's original licensed software or administrative communications and records, which shall remain the exclusive property of Consultant,

b. **Use by County.** The ideas, concepts, know-how, and techniques developed during the course of this Agreement may be used by County in any way it may deem appropriate, so long as that use does not violate any term in this Agreement or any Applicable Law.

c. **No Publication.** Consultant or Consultant's Representatives shall not publish or disseminate information gained through participation in this Agreement without the specific prior review and written consent by County.

d. **Delivery to County.** Upon termination or expiration of this Agreement, Consultant shall immediately deliver to County all County-owned programs and documentation developed under this Agreement. In addition, Consultant grants to County a perpetual, royalty-free, non-exclusive, irrevocable, and non-transferable license to use, solely for County purposes, any Consultant-owned program, including system software, utilized by Consultant in performance of the Services.

e. **Survival of Covenants.** Upon completion of this Agreement, the provisions of this Section 12 shall survive.

Exhibit B

13. Termination. The Purchasing Agent may at his or her election, without cause, terminate this Agreement by written notice (“**Notice of Termination**”). The Notice of Termination will be deemed effective 15 days after personal delivery, or 20 days after mailing by U.S. Mail, postage prepaid, registered or certified mail, addressed as provided in Section 23. In addition, either Party may immediately terminate this Agreement if the other Party fails to substantially perform in accordance with the terms and conditions of this Agreement through no fault of the Party initiating the termination. In the event this Agreement is terminated by either Consultant or the Purchasing Agent, Consultant shall submit to the Responsible County Department all files, memoranda, documents, correspondence and other items generated in the course of performing the Services, within 15 days after the effective date of the Notice of Termination. If either Party terminates this Agreement as provided in this **Section 13**, County shall pay Consultant for all satisfactory Services rendered by Consultant prior to the effective date of Notice of Termination in an amount not to exceed the maximum dollar amount shown on the Schedule.

14. Choice of Law/Venue. The Parties agree that the provisions of this Agreement shall be construed under the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.

15. Compliance with Applicable Law. Consultant shall observe and comply with all applicable local, state and federal laws, ordinances, rules and regulations now in effect or later enacted (“**Applicable Law**”), each of which is made a part of this Agreement.

16. Confidentiality. Consultant shall not, without the prior written consent of the Purchasing Agent, communicate confidential information, designated in writing or identified in this Agreement as confidential, to any third party and shall protect confidential information from inadvertent disclosure to any third party in the same manner that it protects its own confidential information, unless disclosure is required in response to a validly issued subpoena or other process of law. Upon completion of this Agreement, the provisions of this **Section 16** shall continue to survive.

17. Conflicts of Interest.

a. Financial Conflicts of Interest. Consultant has read and is aware of the provisions of Government Code Section 1090 et seq. and Section 87100 et seq. relating to conflict of interest of public officers and employees. Consultant acknowledges that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. It is further understood and agreed that if a financial interest does exist at the inception of this Agreement, County may immediately terminate this Agreement by giving written notice. Consultant shall comply with the requirements of Government Code Section 1090 et seq. and 87100 et seq. during the Term.

b. Organizational Conflicts of Interest. Consultant represents, to the best of its knowledge, that neither Consultant nor any Consultant Representative presently has any consulting or contractual arrangement with any firm or organization that would give rise to an organizational conflict of interest with respect to the Services. Neither Consultant nor any Consultant Representative shall enter into any contractual arrangement that would give rise to any potential organizational conflict of interest, without first obtaining County’s prior written approval before entering into the contractual arrangement. If any organizational conflict of interest is discovered by Consultant relating to this Agreement, Consultant shall immediately notify County, and attempt to present a suitable mitigation plan. County may, at its sole discretion, terminate this Agreement in the event that Consultant has any actual or potential organizational conflict of interest. As used in this **Section 17.b**, “organizational conflict of interest” means any a relationship whereby Consultant has present or planned interests related to the Services which (i) may diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or (ii) may result in Consultant or any Consultant Representative being given an unfair advantage.

18. Enforcement of Remedies. No right or remedy conferred on or reserved to a Party is exclusive of any other right or remedy under law, equity or statute, but each shall be cumulative of every other right or remedy now or in the future existing under law, equity or statute, and may be enforced concurrently or from time to time.

19. Negation of Partnership. In the performance of the Services, Consultant shall be, and acknowledges that Consultant is, in fact and law, an independent contractor and not an agent or employee of County. Consultant has and retains the right to exercise full supervision and control of the manner and methods of providing the Services. Consultant retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting Consultant in the provision of the Services. With respect to Consultant’s employees, if any, Consultant shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state or local, and compliance with any Applicable Law regulating employment.

20. Non-collusion Covenant. Consultant represents and agrees that (i) it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with County and (ii) it has received from County no incentive or special payments and no considerations not related to the provision of the Services.

Exhibit B

21. **Non-discrimination.** Neither Consultant, nor any Consultant Representative, shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or any other classification protected by Applicable Law, either directly, indirectly or through contractual or other arrangements.

22. **Non-waiver.** No term, covenant or condition of this Agreement can be waived except by the prior written consent of County. Forbearance or indulgence by County shall not constitute a waiver of the covenant or condition to be performed by Consultant. County shall be entitled to invoke any remedy available to County under this Agreement or by Applicable Law despite the forbearance or indulgence.

23. **Notices.** All notices under this Agreement shall be provided to the Kern County Purchasing Agent at the address indicated in the opening section of this Agreement and to the Consultant and Responsible County Department at the addresses shown on the Schedule. Delivery shall be by personal delivery or deposit in the U.S. Mail, postage prepaid, registered or certified mail, addressed as specified above. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received five days after deposit. A Party may change the address to which notice is to be given by giving notice as provided above. Nothing in this Agreement shall be construed to prevent or render ineffective delivery of notices under this Agreement by leaving the notice with the receptionist or other person of like capacity employed in Consultant's office, or the receptionist for the Kern County General Services Department.

24. **Captions and Interpretation.** Section headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a Party because that Party or its legal representative drafted the provision. This Agreement is the product of negotiation and both Parties are equally responsible for its authorship. California Civil Code Section 1654 shall not apply to the interpretation of this Agreement.

25. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

26. **Modifications of Agreement.** This Agreement may be modified in writing only, signed by the Parties in interest at the time of the modification.

27. **Severability.** If any term, covenant or condition in, or provision of, this Agreement is determined by a court to be in conflict with any Applicable Law, or otherwise be unenforceable or ineffectual, the validity of the remaining provisions shall be deemed severable and shall not be affected, provided that the remaining provisions can be construed in substance to constitute the agreement which the Parties intended to enter into on the Effective Date.

28. **Signature Authority.** Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.

29. **Sole Agreement.** This Agreement, including the Schedule and Exhibits, contains the entire agreement of the Parties relating to the Services, rights and obligations and terms, covenants and conditions contained in this Agreement and assumed by the Parties. No inducements, representations or promises have been made, other than those stated in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect.

30. **Time of Essence.** Time is expressly declared to be of the essence of this Agreement and of each provision, and each provision is declared to be a material, necessary and essential part of this Agreement.

31. **No Third Party Beneficiaries.** The Parties understand and agree that the enforcement of the terms, covenants and conditions and all rights of action relating to enforcement, shall be strictly reserved to County and Consultant. Nothing contained in this Agreement shall give or allow any claim or right of action by any other third person. It is the express intention of County and Consultant that any person or entity, other than County or Consultant, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

32. **Gender/Plural.** References to feminine, masculine or neutral include the other, and references to the singular or plural include the other.

33. **Recitals.** Each of the recitals is incorporated in this Agreement, is deemed to be the agreement and a reflection of the intent of the Parties, and is relied upon by the Parties in agreeing to the provisions of this Agreement and in interpreting its provisions.

34. **Exhibits.** All exhibits attached to this Agreement are incorporated into this Agreement by reference.

Exhibit B

35. Corporate Qualifications. If Consultant is a corporation incorporated outside the state of California transacting intrastate business within the meaning of California Corporations Code section 191, then Consultant shall, within five business days of the execution of this Agreement, provide County with a copy of the certificate of qualification issued by the California Secretary of State indicating that Consultant is currently qualified to do business in the state of California under California Corporations Code section 2105. If Consultant is a limited liability company formed outside the state of California transacting intrastate business within the meaning of California Corporations Code section 191, then Consultant shall, within five business days of the execution of this agreement, provide to County a copy of the certificate of registration issued by the California Secretary of State indicating that Consultant is currently qualified to do business in the state of California under California Corporations Code section 17708.02. Any corporation or limited liability company, whether or not incorporated in the state of California, must be in good standing to qualify to do business with County. Failure to provide County with the current certificates is grounds for County to terminate the Agreement.

36. Political/Religious Activity. No person performing any service or providing any goods designated under this Contract shall participate in any political or religious activity on County time or in any manner involving the use of county property or expenditure of public funds nor conveying the implication of County endorsement or support for a candidate for local, state, or federal office.

Notwithstanding the foregoing, nothing in this Contract shall be construed to unlawfully limit an individual's Constitutional rights. Accordingly, the limitations contained in this section are for the sole purpose of preventing proselytizing and politicking while engaged in the performance of services under this Contract.

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