Request for Proposal No. DPW12-015
Water Quality Management Plan
On-Call Engineering and Inspection Services

County of San Bernardino
Department of Public Works
Environmental Management Division
825 E. Third Street
San Bernardino, CA, 92415-0835
Issue Date: April 6, 2012
Deadline Date: May 1, 2012

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I. INTRODUCTION

A. Purpose

The County of San Bernardino Department of Public Works, Environmental Management Division, hereafter referred to as the "County" or "Department", is seeking proposals from interested and qualified Proposers to provide on-call engineering and inspection services to assist the County in its implementation of Water Quality Management Plans (WQMPs).

B. Term of Agreement

Specific services to be provided under this Request for Proposals (RFP) are outlined under Section IV, Scope of Work. The Agreement period will be for one (1) year, with an option for a single one (1) year extension. The agreement shall begin on the date of final approval and issuance of the Purchase Order agreement.

C. Minimum Proposer Requirements

All Proposers must:

1. Have no record of unsatisfactory performance. Proposers who are or have been seriously deficient in current or recent Agreement performance, in the absence of circumstances properly beyond the control of the Proposer, shall be presumed to be unable to meet this requirement.

2. Be independent companies with no ties to any companies listed in the "Scope of Work" section of this document (Section IV).

3. Have the ability to maintain adequate files and records and meet statistical reporting requirements.

4. Have the administrative and fiscal capability to provide and manage the proposed services and to ensure an adequate audit trail.

5. Have a minimum of three (3) continuous years of experience providing this type of service.

6. Provide references of a minimum of three (3) other customers, one (1) of which should be a government agency, involving the Proposer's delivery of services that demonstrate the ability of the Proposer to provide the on-call engineering and inspection services as outlined in this RFP. All references must have names, titles and phone numbers.

7. Meet other presentation and participation requirements listed in this RFP.

D. Reserved

E. Questions

Questions regarding the contents of this RFP must be submitted in writing on or **before 2:00 PM on Friday, April 20, 2012,** and directed to the individual listed in Section I, Paragraph F. All questions will be answered and both the question and answer will be posted on the County's Web-Site.

F. Correspondence

All correspondence, **including proposals and questions**, are to be submitted to:

County of San Bernardino
Department of Public Works
Environmental Management Division
Attn: Marc Rodabaugh
825 E. Third Street, Room 201
San Bernardino, California 92415
(909) 387-8112 Phone
(909) 387-7876 Fax
marc.rodabaugh@dpw.sbcounty.gov Email

Fax number and e-mail address may be used to submit questions only. **Proposals <u>will not</u> be accepted by email or facsimile.**

G. Admonition to Proposers

Once this RFP has been issued, the individual identified above is the sole contact point for any inquiries or information relating to this RFP. Failure to adhere to this policy may result in disqualification of the Proposer. All questions regarding this RFP can be presented in writing as indicated in Section I, Paragraph E.

H. Proposal Submission Deadline

All proposals must be received at the address listed in Section I, Paragraph F – Correspondence, no later than 2:00 PM on Tuesday, May 1, 2012. For the purposes of this proposal, the time specified will be as defined by the official time clock located at the address listed in Section I, Paragraph F – Correspondence. Facsimile or electronically transmitted proposals will not be accepted in lieu of actual receipt. **<u>Late or incomplete proposals will not be accepted.</u>**

II. PROPOSAL TIMELINE

Release of RFP	April 6, 2012
Deadline for Submission of Questions	2:00 PM, Friday, April 20, 2012
Deadline for Proposals	2:00 PM, Tuesday, May 1, 2012
Tentative Date for Awarding Agreement	July 2012

III. PROPOSAL CONDITIONS

A. Contingencies

This RFP does not commit the County of San Bernardino to award an Agreement. The County reserves the right to accept or reject any or all proposals if the County determines it is in the best interest of the County to do so. The County will notify all Proposers in writing, if the County rejects all proposals. The County also reserves the right to terminate this RFP process at any time.

B. Acceptance or Rejection of Proposals

Proposals shall remain open, valid and subject to acceptance anytime within one hundred eighty (180) days after the proposal opening and up to the end of the Agreement period. The County reserves the right to reject any or all proposals.

C. Evaluation Process

Proposals will be evaluated in compliance with the procedure described in Section VII of this RFP.

D. Modifications

The County reserves the right to issue addenda or amendments to this RFP if the County considers that additional clarifications are needed.

E. Proposal Submission

To be considered, all proposals must be submitted in the manner set forth in this RFP. It is the Proposer's responsibility to ensure that its proposal arrives on or before the specified time.

F. Incurred Costs

The County is not obligated to pay any costs incurred by Proposers in the preparation of a proposal in response to this RFP. Proposers agree that all costs incurred in developing this proposal are the Proposer's responsibility.

G. Negotiations

The County may require the potential Proposer(s) selected to participate in negotiations. This may include cost, technical, or other clarifications needed to make a decision.

H. Formal Agreement

Proposer will be required to enter into a formal Agreement with the County. This RFP sets forth some of the general provisions which will be included in the final Agreement. In submitting a response to this RFP, Proposer will be deemed to have agreed to each clause unless the proposal identifies an objection and County agrees to a change of language in writing. All objections to any provisions of the final Agreement should be listed on Attachment C – Exceptions to RFP.

I. Use of Proposals Received

All proposals received shall become the property of the County.

J. Final Authority

The final authority to award Agreements as a result of this RFP rests solely with the County of San Bernardino Board of Supervisors (Board). In certain situations, the Board may authorize the Chief Executive Officer (CEO) and/or the Purchasing Agent to award Agreements.

IV. SCOPE OF WORK

A. Background

The County of San Bernardino is listed as a Co-Permitee with the County of San Bernardino Flood Control District and sixteen cities on the Santa Ana Regional Water Quality Control Board issued National Pollutant Discharge Elimination System Permit and appurtenant Waste Discharge Requirements for the Area-Wide Urban Storm Water Runoff Management Program (Order No. R8-2010-0036). One requirement of this permit is the preparation and implementation of Water Quality Management Plans (WQMP) for all new development and significant re-development projects within the County's permit area. The WQMP addresses the requirements for these projects to implement structural and treatment Best Management Practices (BMP) to retain and/or treat on-site stormwater prior to its release to the County's municipal separate storm sewer system.

B. Scope of Work

The selected Proposer will provide engineering and construction inspection services on an as-needed basis to assist the County in their implementation of WQMP. These plans shall be implemented in accordance with both the approved project plans, and the suggested design provisions contained in the California Stormwater Quality Association (CASQA) Stormwater BMP Handbook – New Development and Redevelopment (www.cabmpshandbooks.com). The services provided by the selected Proposer shall include, but are not limited to, providing as needed professional engineering consulting services, the performance of on-site construction and post-construction inspections, preparation of detailed reports (see Items 1 through 3, below), and preparation of a signed and stamped certification statement indicating that the project was constructed in compliance with the project plans, the WQMP, and the

CASQA Stormwater Best Management Practice Handbook – New Development and Redevelopment (see Item 4, below).

The selected Proposer shall provide, at a minimum, the following items when performing construction and post-construction inspection services:

1. A detailed matrix report describing the type of inspection, the inspection dates / times, inspector name, project status, and staff and travel time.

2. File of inspection records, containing photographs with detailed inspection notes. Immediate notification will be made to the Department when site conditions are found to be in conflict with construction documents.

3. A summary report identifying recommendations and comments on design or suggested re-design of any portion of the plans, when WQMP features have design flaws, create safety concerns, or site conditions prevent construction, as designed.

4. Certification statement containing the professional engineer's stamp and signature that the project has been constructed in conformance with the project plans, the WQMP, and the CASQA Stormwater Best Management Practice Handbook – New Development and Redevelopment.

In providing the deliverables outlined above, the selected Proposer will act in accordance with established County agreements, policies and procedures, including the use of checklists and other forms that have been pre-approved by the County.

The selected Proposer's use of subcontractors is prohibited without prior written approval from the County.

V. AGREEMENT REQUIREMENTS

It is the County's intent that the contractual relationship between the Proposer and the County shall be substantially as set forth in the attached sample Agreement (Attachment J). In developing the proposal, the Proposer should carefully review the sample Agreement and the contractual requirements listed in Section V and take into consideration the rights, obligations, and costs associated therewith. Any change in the sample Agreement or the contractual requirements in Section V, which the Proposer desires, must be specified in the proposal or the requested change will be deemed to have been waived.

A. General

1. **Legality and Severability**
   The parties' actions under the Agreement shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. If a provision of the Agreement is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

2. **Iran Contracting Act of 2010**
   (Applicable for all RFP/Bids of one million dollars ($1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Proposer certifies that at the time the proposal is submitted, the Proposer signing the proposal is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 (http://www.dgs.ca.gov/pd/Resources/PDLegislation.aspx as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a)

of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

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

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

4. **Representation of the County**
In the performance of the Agreement, Proposer, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

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

6. **Change of Address**
Proposer shall notify the County in writing of any change in mailing address within ten (10) business days of the change.

7. **Subcontracting**
Proposer agrees not to enter into any subcontracting contracts for work contemplated under the Agreement without first obtaining written approval from the County. Any subcontracting shall be subject to the same terms and conditions as Proposer. Proposer shall be fully responsible for the performance and payments of any subcontractor's contract.

8. **Agreement Assignability**
Without the prior written consent of the County, the Agreement is not assignable by Proposer either in whole or in part.

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

10. **Termination for Convenience**
The County for its convenience may terminate this Agreement in whole or in part upon ten (10) calendar day's written notice. Such adjustment shall provide for payment to the Proposer for services rendered and expenses incurred prior to the effective date of termination. Upon receipt of termination notice Proposer shall promptly discontinue services unless the notice directs otherwise. Proposer shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

11. **Attorney Fees and Costs**

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Part B-1 Indemnification.

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

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

14. **Licenses, Permits and/or Certifications**
Proposer shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Proposer shall maintain these licenses, permits and/or certifications in effect for the duration of this Agreement. Proposer will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain required licenses, permits and/or certifications may result in immediate termination of this Agreement.

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

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

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

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

The County, by written notice, may immediately terminate any Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once an Agreement has been awarded.

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

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

20. **Inaccuracies or Misrepresentations**
If in the administration of an Agreement, the County determines that Proposer has made a material misstatement, misrepresentation, or omission that materially inaccurate information has been provided to the County during the RFP process, the Agreement may be immediately terminated. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

21. **Ownership of Documents**

All documents, data, products, graphics, computer programs, and reports prepared by the Proposer pursuant to this Agreement shall be considered property of the County upon payment for services (and product, if applicable). All such items shall be delivered to the County at the completion of work under this Agreement, subject to the requirements of Section V, Paragraph A, 9 (Termination for Convenience). Unless otherwise directed by the County, Proposer may retain copies of such items.

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

23. **Invoices**
Proposer shall provide County itemized monthly invoices, in arrears, for services performed under this Agreement within twenty (20) days of the end of the previous month.

24. **Release of Information**
No news releases, advertisements, public announcements or photographs arising out of this Agreement or Proposer's relationship with County may be made or used without prior written approval of the County.

25. **Section Not Used**

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

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

27. **Air, Water Pollution Control, Safety and Health**
Proposer shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Agreement.

28. **Drug and Alcohol-Free Workplace**
In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Agreement, the Proposer agrees that the Proposer and the Proposer's employees, while performing service for the County, on County property, or while using County equipment:

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

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

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

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

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

30. **Disclosure of Criminal and Civil Proceedings**
The County reserves the right to request the information described herein from the Proposer selected for Agreement award. Failure to provide the information may result in a disqualification from the selection process and no award of Agreement to the Proposer. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The selected Proposer also may be requested to provide information to clarify initial responses. Negative information provided or discovered may result in disqualification from the selection process and no award of Agreement.

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

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

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

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

32. **Environmental Requirements**
In accordance with County Policy 11-10, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Proposers to use recycled paper for proposals and for any printed or photocopied material created as a result of an Agreement with the County. The policy also requires Proposers to use both sides of paper sheets for reports submitted to the County whenever practicable.

Although the County has not committed to allowing a cost preference, if two products are equivalent and the cost is feasible the environmentally preferable product would be selected. The intent is to utilize Proposers that reduce environmental impacts in their production and distribution systems whenever fiscally practicable.

To assist the County in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB939), Proposer must be able to annually report the County's environmentally preferable purchases using Attachment I. Service providers are asked to report on environmentally preferable goods and materials used in the provision of their service to the County.

33. **American-Recovery and Reinvestment Act Funding (ARRA)**
Use of ARRA Funds and Requirements
This Agreement may be funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 ("ARRA"), signed into law on February 17, 2009. Section 1605 of ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance or repair of a public building or public work (both as defined in 2 CFR 176.140) unless all of the iron, steel and manufactured goods (as defined in 2 CFR 176.140) used in the project are produced in the United States. A waiver is available under three limited circumstances: (i) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality; (ii) Inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or (iii) Applying the domestic preference would be inconsistent with the public interest. This is referred to as the "Buy American" requirement. Request for a waiver must be made to the County for an appropriate determination.

Section 1606 of ARRA requires that laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 31). This is referred to as the "wage rate" requirement.

The above described provisions constitute notice under ARRA of the Buy American and wage rate requirements. Proposer must contact the County contact if it has any questions regarding the applicability or implementation of the ARRA Buy American and wage rate requirements. Proposer will also be required to provide detailed information regarding compliance with the Buy American requirements, expenditure of funds and wages paid to employees so that the County may fulfill any reporting requirements it has under ARRA. The information may be required as frequently as monthly or quarterly. Proposer agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Agreement.

Proposer may also be required to register in the Central Contractor Registration (CCR) database at http://www.ccr.gov and may be required to have its subcontractors also register in the same database. Proposer must contact the County with any questions regarding registration requirements.

Schedule of Expenditure of Federal Awards

In addition to the requirements described in "Use of ARRA Funds and Requirements," proper accounting and reporting of ARRA expenditures in single audits is required. Proposer agrees to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by the Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations." This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512 (c).

In addition, Proposer agrees to separately identify to each subcontractor and document at the time of subcontract and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds.

Proposer may be required to provide detailed information regarding expenditures so that the County may fulfill any reporting requirements under ARRA described in this section. The information may be required as frequently as monthly or quarterly. Proposer agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Agreement.

Whistleblower Protection

Proposer agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-Federal contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of an Agreement relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to the implementation or use of recovery funds; or (5) a violation of law, rule, or regulation related to an agency Agreement (including the competition for or negotiation of an Agreement) awarded or issued relating to ARRA funds.

Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Division A, Title XV of the ARRA.

B. Indemnification and Insurance Requirements

1. **Indemnification**

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

For a "construction contract" as defined in Civil Code section 2783, the following indemnification paragraph applies: "The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers (Indemnitees) from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the Indemnitees on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The Contractor's indemnification obligation applies to the Indemnitee's "passive" negligence but does not apply to the Indemnitee's "sole" or "active" negligence" or "willful misconduct" within the meaning of Civil Code Section 2782."

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

2. **Basic Insurance Requirements**

Additional Insured

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

Waiver of Subrogation Rights

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

Policies Primary and Non-Contributory

All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

Severability of Interests

The Proposer agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for

suits between the Proposer and the County or between the County and any other insured or additional insured under the policy.

Proof of Coverage
The Proposer shall furnish certificates of insurance to the County Department administering the Agreement evidencing the insurance coverage at the time the Agreement is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department(s) and Proposer shall maintain such insurance from the time Proposer commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Agreement, the Proposer shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and all endorsements immediately upon request.

Acceptability of Insurance Carrier
Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum “Best” Insurance Guide rating of “A-VII”.

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

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

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

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

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

3. **Insurance Specifications**
The Proposer agrees to provide insurance set forth in accordance with the requirements herein. If the Proposer uses existing coverage to comply with these requirements and that coverage does not

meet the specified requirements, the Proposer agrees to amend, supplement or endorse the existing coverage to do so.

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

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

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

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

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

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

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

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

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

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

Professional Services Requirements
Professional Liability – Professional Liability Insurance with limits of not less than one million ($1,000,000) per claim or occurrence and two million ($2,000,000) aggregate limits

or

Errors and Omissions Liability Insurance with limits of not less than one million ($1,000,000) and two million ($2,000,000) aggregate limits

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

C. Right to Monitor and Audit

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

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

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

VI. PROPOSAL SUBMISSION

A. General

1. All interested and qualified Proposers are invited to submit a proposal for consideration. Submission of a proposal indicates that the Proposer has read and understands the entire RFP, to include all appendixes, attachments, exhibits, schedules, and addendum (as applicable) and all concerns regarding the RFP have been satisfied.

2. Proposals must be submitted in the format described below. Proposals are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc., are neither necessary nor desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.

3. Proposals must be completed in all respects as required in this section. A proposal may not be considered if it is conditional or incomplete.

4. All information submitted in the proposal or in response to request for additional information is subject to disclosure under the provisions of the California Public Records Act, Government Code Section 6250 et seq. and the following. Proposals may contain financial or other data that constitutes a trade secret. To protect such data from disclosure, Proposer should specifically identify the pages that contain confidential information by properly marking the applicable pages and inserting the following notice on the front of the response:

NOTICE

> The data on pages_____ of this proposal response, identified by an asterisk (*) or marked along the margin with a vertical line, contains information which are trade secrets. We request that such data be used only for the evaluation of our response, but understand that disclosure will be limited to the extent that the County of San Bernardino determines is proper under federal, state, and local law.

The proprietary or confidential data shall be readily separable from the Proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.

The County assumes no responsibility for disclosure or use of unmarked data for any purpose. In the event disclosure of properly marked data is requested, the Proposer will be advised of the request and may expeditiously submit to the County a detailed statement indicating the reasons it has for believing that the information is exempt from disclosure under federal, state, and local law. The County will exercise care in applying this confidentiality standard but will not be held liable for any damage or injury, which may result from any disclosure that may occur.

B. Proposal Presentation

1. All proposals must be submitted on 8 ½ x 11 paper, neatly typed, double-sided on recycled paper, with normal (1-inch) margins and single-spaced. Typeface must be no more than 12 characters per inch. Each page, including attachments, must be clearly and consecutively numbered at the bottom center of each page.

2. One (1) original and five (5) copies, for a total of six (6), and one (1) CD of the complete proposal must be received by the deadline for receipt of proposal specified in Section I, Paragraph H (Proposal Timeline). The original and all copies must be in a sealed envelope or container stating on the outside: Proposer Name, Address, Telephone Number, RFP number, RFP Title, and Proposal due date. **PROPOSER MUST ALSO COMPLETE THE ATTACHED FEE PROPOSAL SHEET (ATTACHMENT F), AND ENCLOSE IT IN A SEPARATE SEALED ENVELOPE TO BE SUBMITTED AS PART OF THE PROPOSAL.**

3. Hand carried proposals may be delivered to the address identified in Section I, Paragraph F, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays observed by the County. Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements, and for ensuring that the address information appears on the outer wrapper or envelope used by such service.

   The County reserves the right to reject any and all proposals or portions of proposal or alternates received by reasons of this request, to negotiate separately with any source whatsoever in any manner necessary to serve its interests.

C. Proposal Format

Response to this RFP must be in the form of a proposal package, which must be submitted in the following format:

1. **Cover Page** – Attachment A is to be used as the cover page for the proposal. This form must be fully completed and signed by an authorized officer of the Proposer.

2. **Table of Contents** – All pages of the proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the Table of Contents.

3. **Statement of Experience**
   Include the following in this section of the proposal:
   a. Business name of the prospective Proposer and legal entity such as corporation, partnership, etc.
   b. Number of years the prospective Proposer has been in business under the present business name, as well as related prior business names.
   c. A brief summary of the relevant qualifications and experience in providing the services solicited in this RFP.

4. **Minimum Proposer Requirements**
   Complete, initial, and sign Attachment B.

5. **Exceptions to RFP**
   Complete Attachment C.

6. **Statement of Certification** (Attachment D) **-** Include the following in this section of the Proposal
   a. A statement that the offer made in the proposal is firm and binding for 180 days from the date the proposal is opened and recorded.
   b. A statement that all aspects of the proposal, including the fee proposal, have been determined independently, without consultation with any other prospective Proposer or competitor for the purpose of restricting competition.
   c. A statement that all declarations in the proposal and attachments are true and that this shall constitute a warranty, the falsity of which will entitle the County to pursue any remedy by law.
   d. A statement that the Proposer agrees that all aspects of the RFP and the proposal submitted shall be binding if the proposal is selected and an Agreement awarded.
   e. A statement that the Proposer agrees to provide the County with any other information the County determines is necessary for an accurate determination of the Proposer's ability to perform the services as proposed; and
   f. A statement that the prospective Proposer, if selected will comply with all applicable rules, laws and regulations.

7. **References**
   Provide three (3) references from other agencies that you have established an Agreement with on a project of this nature, of same or similar size. Provide Contact Name, Address, Phone Number, and dates services were provided on Attachment E.

8. **Proposal Description**
   Provide a detailed description of the proposal being made.
   a. The proposal should address, but is not limited to, all terms in Section IV.
   b. The proposal should include the following:
      i. A brief synopsis of the Proposer's understanding of the County's needs and how the Proposer plans to meet these.
      ii. A concise statement of the services (and product, if applicable) proposed.
      iii. An explanation of any assumptions and/or constraints.

9. **Project Team Organization Chart**

Project Team Organization Chart shall clearly show the organization of the team and the hierarchy of the members. It must include:

a. Organizational framework for the proposed Project team.
b. Company name and key staff name for each role identified in the chart.

10. **Work Plan and Schedule**
    Include the following:
    a. Summary of management/work plan for this Project;
    b. Project schedule

11. **Statement of Qualifications**
    Include the following in this section of the proposal:
    a. Number of years the prospective Proposer has been in business under the present business name, as well as related prior business names.
    b. Statement that the Proposer does not have any commitments or potential commitments which may impact the Proposer's ability to perform this Agreement.
    c. A list of references with which Proposer has provided similar services during the last five (5) years. Please include the name, address, and telephone number, and the type of services provided. Please include a contact person who the County can call in order to verify the quality of services your organization/firm has provided.
    d. Resumes of key Project team members.
    e. Provide project profiles that directly relate to this Project in terms of size and scope. The project profiles shall clearly indicate the scope of services Proposer provided for that project.

12. **Licenses, Permits and/or Certifications**
    Provide copies of all licenses, permits and/or certifications as required under Section V, Paragraph A, 14.
13. **Cost**
    Complete proposed pricing on Attachment F and enclose it in a separate sealed envelope to be submitted as part of the proposal.

14. **Employment of Former County Officials**
    Provide information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent your business. The information provided must include a list of former county administrative officials who terminated county employment within the last five years and who are now officers, principals, partners, associates or members of the business and should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of your business. For purposes of this section, "county administrative official" is defined as a member of the Board of Supervisors or such officer's staff, Chief Executive Officer or member of such officer's staff, county department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

    Failure to provide this information may result in the response to the request for proposal being deemed non-responsive.

15. **Insurance**
    Submit evidence of ability to insure as stated in Section V, Paragraph B, Indemnification and Insurance Requirements.

VII. PROPOSAL EVALUATION AND SELECTION

A. Initial Review

All proposals will be initially evaluated by Department staff to determine if they meet the following minimum requirements:

1. The proposal must be complete, in the required format, and be in compliance with all the requirements of this RFP.

2. Prospective Proposers must meet the requirements as stated in the Minimum Proposer requirements as outlined in Section I, Paragraph C. Failure to meet all of these requirements will result in a rejected proposal. No proposal shall be rejected, however, if it contains a minor irregularity, defect or variation and if the irregularity, defect or variation is considered by the County to be immaterial or inconsequential, the County may chose to accept the proposal. In such cases the Proposer will be notified of the deficiency in the proposal and given an opportunity to correct the irregularity, defect or variation or the County may elect to waive the deficiency and accept the proposal.

B. Evaluation Committee

The County will establish an Evaluation Committee with responsibility for reviewing all proposals that meet the Minimum Proposer requirements outlined in Section I, Paragraph C and conducting the reviews, evaluations, and scoring described in Section VII. In addition, the Evaluation Committee, may, in its sole discretion, utilize outside experts and financial consulting or reporting services to assist in the evaluation process.

C. Evaluation of Proposals

Proposals meeting the requirements of Section VII, Paragraph A, will be evaluated by the Evaluation Committee as follows:

1. Qualifications Evaluation – The Evaluation Committee will conduct an evaluation of all proposals under the criteria set forth in Section VII, Paragraph D. The Evaluation Committee will rank all proposals and reject any proposals that do not meet the minimum qualifications as stated in this RFP.

2. Fee Proposals – Following a ranking of the proposals, the Evaluation Committee will open all fee proposals. The Evaluation Committee will not alter the ranking of the proposals once the fee proposals have been opened. However, the fee proposals will be used during negotiations with the selected Proposer.

Recommendation – Following the completion of evaluations by the Evaluation Committee and the scoring of Proposals in accordance with this Section, the Evaluation Committee will make a recommendation for award of a Proposer Agreement and Department Staff will enter into negotiations with the Proposer. The final decision to award any Agreement as a result of this RFP process rests solely with the County of San Bernardino Board of Supervisors. In certain situations, the Board may authorize the Chief Executive Officer (CEO) and/or the Purchasing Agent to award Agreements.

D. Evaluation Criteria

1. No proposal shall be rejected if it contains a minor irregularity, defect, or variation if the irregularity, defect or variation is considered by the County (at the County's sole discretion) to be immaterial or inconsequential. In such cases, the Proposer will be notified of the deficiency in the proposal and given an opportunity to correct the irregularity, defect or variation, or the County may elect to waive the deficiency and accept the Proposal.

2. The successful Proposer will be selected on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. The County will use the following criteria and weighting factor in its evaluation and comparison of proposals submitted:
   a. Responsiveness to RFP (25%).

b. Professional reputation of firm (10%).
c. Experience with projects similar to those described in this RFP (25%).
d. Adequacy of firm's support staff or sub-consultants (10%).
e. Satisfaction of current/past clients (10%).
f. Proven experience in meeting schedules (10%).
g. Accuracy of firms cost estimates (5%).
h. Experience with local approval agencies (5%).

3. The Evaluation Committee may contact any of the Proposer's client references to discuss the Proposer's qualifications and past performance. The results of any such reference checks will be considered in the evaluation and scoring of proposals.

4. The County may also contact any proposer to clarify any response; contact any current users of a proposer's services; solicit information from any available source concerning any aspect of a proposal; request an oral presentation of any or a select few proposers; and seek and review any other information deemed pertinent to the evaluation process.

E. Negotiations

1. Following the evaluation process, the most qualified firm will be selected and negotiations will be held with that firm. If negotiations are not successful, the County will so notify the firm, and commence negotiations with the next rated firm, and so on.
2. After negotiations are complete, the Agreement will be presented to the County of San Bernardino Board of Supervisors for approval. In certain situations, the Board may authorize the Chief Executive Officer (CEO) and/or the Purchasing Agent to award Agreements. Once the Board has taken action, the selected Proposer will be notified in writing.

F. Award

Agreement(s) will be awarded based on a competitive selection of proposals received. The contents of the proposal of the successful Proposer will become contractual obligations and failure to accept these obligations in a contractual Agreement may result in cancellation of the award.

G. Disputes Relating to Proposal Process and Award

In the event a dispute arises concerning the proposal process prior to the award of the Agreement, the party wishing resolution of the dispute shall submit a request in writing to the Director of Purchasing. Proposer may appeal the recommended award or denial of award, provided the following stipulations are met:

1. Appeal must be in writing.
2. Must be submitted within ten (10) calendar days of the date of the recommended award or denial of award letters.

An appeal of a denial of award can only be brought on the following grounds:

1. Failure of the County to follow the selection procedures and adhere to requirements specified in the RFP or any addenda or amendments.
2. There has been a violation of conflict of interest as provided by California Government Code Section 87100 et seq.
3. A violation of State or Federal law.

Appeals will not be accepted for any other reasons than those stated above. All appeals must be sent to:

Laurie Rozko, Director
County of San Bernardino
Purchasing Department
777 E. Rialto Avenue

San Bernardino, CA 92415-0760

The County Purchasing Agent shall make a decision concerning the appeal, and notify the Proposer making the appeal, within a reasonable timeframe prior to the tentatively scheduled date for awarding the Agreement. The decision of the County Purchasing Agent shall be deemed final.

ATTACHMENT A – COVER PAGE

PROPOSER'S NAME (*name of firm, entity, or organization*):

_____

_____

FEDERAL EMPLOYER IDENTIFICATION NUMBER:

_____

NAME AND TITLE OF PROPOSER'S CONTACT PERSON:

_____

MAILING ADDRESS:
Street Address: _____

City, State, Zip: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

EMAIL ADDRESS: _____

PROPOSER'S ORGANIZATIONAL STRUCTURE
___ Corporation ____ Partnership ____ Proprietorship ___ Joint Venture
___Other (explain): _____

If Corporation, Date Incorporated: _____State Incorporated: _____
States Registered in as foreign corporation:

PROPOSER'S SERVICES OR BUSINESS ACTIVITIES OTHER THAN WHAT THIS RFP REQUESTS:

_____

_____

PROPOSER'S AUTHORIZED SIGNATURE:
The undersigned hereby certifies that this proposal is submitted in response to this solicitation.

SIGNED:_____

DATE: _____

PRINT NAME: _____

TITLE: _____

ATTACHMENT B – MINIMUM PROPOSER REQUIREMENTS

The following requirements apply to all prospective Proposers.

	Requirement	Agree (initial)	Agree with qualification (initial and attach explanation)
1.	Have no record of unsatisfactory performance. Proposers who are or have been seriously deficient in current or recent Agreement performance, in the absence of circumstances properly beyond the control of the Proposer, shall be presumed to be unable to meet this requirement		
2.	Be independent companies with no ties to any companies listed in the "Scope of Work" section of this document (Section IV).		
3.	Have the ability to maintain adequate files and records and meet statistical reporting requirements.		
4.	Have the administrative and fiscal capability to provide and manage the proposed services and to ensure an adequate audit trail.		
5.	Have a minimum of three (3) continuous years of experience providing this type of service.		
6.	Provide references of a minimum of three (3) other customers, one (1) of which should be a government agency, involving the Proposer's delivery of services that demonstrate the ability of the Proposer to provide the on-call engineering and inspection services as outlined in this RFP. All references must have names, titles and phone numbers.		
7.	Meet other presentation and participation requirements listed in this RFP.		

SIGNED_____

PRINT NAME_____

TITLE_____

DATE_____

ATTACHMENT C – EXCEPTIONS TO RFP

PROPOSER NAME _____

ADDRESS _____

TELEPHONE# ( ) _____ FAX # ( ) _____

I have reviewed the RFP, General Agreement Terms and Sample Agreement in their entirety and have the following exceptions: (Please identify and list your exceptions by indicating RFP, the Section or Paragraph number, and Page number, as applicable. Be specific about your objections to content, language, or omissions. Add as many pages as required.)

Name of Authorized Representative _____

Signature of Authorized Representative _____

Date _____

ATTACHMENT D – STATEMENT OF CERTIFICATION

The following statements are incorporated in our response to the County of San Bernardino.

	Statement	**Agree (initial)**	**Agree with qualification (initial and attach explanation)**
1.	The offer made in the proposal is firm and binding for 180 days from the date the proposal is opened and recorded.		
2.	All aspects of the proposal, including the fee proposal, have been determined independently, without consultation with any other prospective Proposer or competitor for the purpose of restricting competition.		
3.	All declarations in the proposal and attachments are true and that this shall constitute a warranty, the falsity of which will entitle the County to pursue any remedy by law.		
4.	Proposer agrees that all aspects of the RFP and the proposal submitted shall be binding if the proposal is selected and an Agreement awarded.		
5.	Proposer agrees to provide the County with any other information the County determines is necessary for an accurate determination of the Proposer's ability to perform the services as proposed; and		
6.	Proposer, if selected will comply with all applicable rules, laws and regulations.		

ATTACHMENT E – REFERENCES

Name of Agency	Contact Name/Address	Phone Number	Dates services provided (from/through*)

Provide a minimum of three (3) customer references you have contracted with, providing the same service as requested in this RFP.

*Enter "**Present**" if still providing the services (Example: 10/08/03/present).

ATTACHMENT F – FEE PROPOSAL SHEET(S)

Project No._____

Water Quality Management Plan On-Call Engineering and Inspection Services Project

Proposer's Hourly Rate for Travel to and from the Inspection Site $_____

*** Please note that when determining travel time, the time will be calculated using 825 E. Third Street in San Bernardino (Public Works main office) as the starting and ending location.*

Proposer's Hourly Rate for On-Site Inspection Services $_____

*** Rate includes all vehicle costs.*

Proposer's Hourly Rate for Travel back from Inspection Site $_____

Proposer's Hourly Rate for Document Review $_____

*** Rate includes review of WQMP design, all inspection data, etc.*

Proposer's Hourly Rate for Preparation of Certification Statement $_____

Please include a rate sheet valid, for two years, for use in determining additional on-call engineering and inspection services costs. The rate sheet shall include all labor, non-labor and other indirect costs (i.e. equipment and vehicle rental, mileage reimbursement rates, etc.).

_____
Signature & Title

_____
(Firm)

Proposer must complete this form.

ATTACHMENT G –NOT USED

ATTACHMENT H – PROPOSAL CHECKLIST

Use this checklist to ensure that all items requested have been included.

	Items Completed	**Page (s)**
1.	Attachment A – Cover Page	
2.	Attachment B – Minimum Proposer Requirements	
3.	Attachment C – Exceptions to RFP	
4.	Attachment D – Statement of Certification	
5.	Attachment E – References	
6.	Attachment F – Fee Proposal Sheet **(in separate sealed envelope)**	
8.	Attachment H – Proposal Checklist	
9.	Licenses/Certifications	

ATTACHMENT I - REPORT OF ENVIRONMENTALLY PREFERABLE GOODS AND SERVICES

County of San Bernardino

Green Purchasing Report from _____ (Proposer)

Account No. _____

MM/DD/YYYY to MM/DD/YYYY

Billing Information			Product Information						Supplier Information	Environmental Information		
PO No.	Invoice or Reference No.	Invoice Date	Product No.	Product Description	Quantity	Price p/unit	No. of units	Total Cost	Manufacturer Name	Green Y/N	Green Attributes (see attachment)	Certifications and/or accreditation (see attachment)

EXAMPLES OF GREEN ATTRIBUTES	EXAMPLES OF CERTIFICATION AND/OR ACCREDITATION
Biobased	Certified Approved Product (AP) Non-Toxic
Biodegradable	Ecologo Certified
Carcinogen-free	Energy Star
Chlorofluorocarbon (CFC)-free	Electronic Product Environmental Assessment Tool (EPEAT) program
Compostable	Forest Stewardship Council Certified
Energy efficiency	Green Seal Certified
Lead-free	Greenguard Certified
Less hazardous	Scientific Certification Systems (SCS)
Low toxicity	
Mercury-free	
Persistent bioaccumulative toxin (PBT)-free	
Rapidly renewable	
Rechargeable	
Recyclable	
Recycled content	
Reduced greenhouse gas emissions	
Reduced packaging	
Refill/refillable	
Remanufactured/refurbished	
Renewable materials	
Responsible forestry	
Upgradeable	
Water efficiency	

ATTACHMENT J – SAMPLE AGREEMENT

Template for Board Approved Contract for Services (rev. 9-15-2011)

San Bernardino County
Flood Control District

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

☐ New ☐ Change ☐ Cancel	Vendor Code	**SC**	Dept. PUR	**A**	Contract Number
County Department		Dept.	Orgn.		Contractor's License No.
County Department Contract Representative		Telephone			Total Contract Amount $

Contract Type
☐ Revenue ☐ Encumbered ☐ Unencumbered ☐ Other:

If not encumbered or revenue contract type, provide reason:

Commodity Code	Contract Start Date	Contract End Date	Original Amount	Amendment Amount

Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No	Amount
						$
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
						$
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
						$

Project Name	Estimated Payment Total by Fiscal Year					
	FY	Amount	I/D	FY	Amount	I/D

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name _____ hereinafter called Contractor

Address _____

Telephone _____ Federal ID No. or Social Security No. _____

IT IS HEREBY AGREED AS FOLLOWS*:*

WHEREAS, the County of San Bernardino desires to [*describe services to be provided*]; AND

WHEREAS, the County conducted a competitive process to find contractors able to provide these services, AND

WHEREAS, the County finds Contractor qualified to provide [*enter service*]; AND

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

NOW, THEREFORE, the County and Contractor mutually agree to the following terms and conditions:

I. DEFINITIONS

Auditor/Controller-Recorder Use Only

☐ Contract Database	☐ FAS
Input Date	**Keyed By**

a. [*List any definitions and/or abbreviations that require explanation beyond normal usage*.]

b. *

c. *

II. CONTRACTOR RESPONSIBILITIES

a. [*Enter Contractor's service responsibilities here, including scope of work*.]

b. *

c. *

d. *

III. GENERAL CONTRACT REQUIREMENTS

a. **Recitals**

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

b. **Legality and Severability**

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

c. **Representation of the County**

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

d. **Relationship of the Parties**

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

e. **Primary Point of Contact**

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contract in the event the primary contact is no available.

f. **Change of Address**

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

g. **Subcontracting**

Contractor agrees not to enter into any subcontracting agreements for work contemplated under the Contract without first obtaining written approval from the County. Any subcontracting shall be subject to the same terms and conditions as Contractor. Contractor shall be fully responsible for the performance and payments of any subcontractor's Contract.

h. **Agreement Assignability**

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

i. **Agreement Modification**

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

j. **Duration of Terms**

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

k. **Time of the Essence**

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

l. **Strict Performance**

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

m. **Mutual Covenants**

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

n. **if applicable* **Contract Exclusivity**

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

o. **Notification Regarding Performance**

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under the Contract, the Contractor shall notify the County within one (1) working day, in writing and by telephone.

p. **Attorney's Fees and Costs**

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

q. **Venue**

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

r. **Choice of Law**

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

s. **Licenses, Permits and/or Certifications**

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

t. **if applicable* **Prevailing Wage Requirements**

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

u. **Notification Regarding Performance**

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

v. **Conflict of Interest**

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

w. **Improper Consideration**

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

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

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

x. **Former County Administrative Officials**

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

y. **Improper Influence**

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

z. **Material Misstatement/Misrepresentation**

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

aa. **Ownership of Documents**

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

bb. **if applicable* **Copyright**

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

cc. **Release of Information**

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

dd. **if applicable* **Participation Clause**

The County desires that Municipalities, School Districts, and other Tax Districts within the County of San Bernardino requiring the same services provided herein may at their option and through the County Purchasing agent, avail themselves of this Contract. Upon notice, in writing, the Contractor agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this bid, with the provisions that:

1. Such governmental body does not have and will not have in force any other contract for like purchases.

2. Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Contractor. The County will not be liable for any such purchase made between the Contractor and another governmental body who avails themselves of this contract.

ee. **If applicable* **Damage to County Property**

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

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

ff. **Air, Water Pollution Control, Safety and Health**

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

gg. **if applicable* **Drug and Alcohol Free Workplace**

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

a. Shall not be in any way impaired because of being under the influence of alcohol or a drug.

b. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.

c. Shall not sell, offer, or provide alcohol or a drug to another person.

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

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

hh. **if applicable* **Artwork, Proofs and Negatives**

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

ii. **Environmental Requirements**

In accordance with County Policy 11-10, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable

purchases. Services providers are asked to report on environmentally preferable goods and materials used in the provision of their service to the County.

jj. **Employment Discrimination**

During the term of the Contract, Contractor shall not willfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, gender, marital status, age, political affiliation, disability or sexual orientation. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

kk. **if applicable* **Debarment and Suspension**

The Contractor certifies that neither it nor its principals or subcontracts is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency as required by Executive Order 12549.

ll. **Informal Dispute Resolution**

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

mm. **Iran Contracting Act**

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

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

nn. **if applicable* **County Representative**

The **insert title of individual* of his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. The County of San Bernardino Board of Supervisors must approve all amendments to this Contract.

oo. **Records**

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

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work, and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy.

pp. **Include here any applicable additional requirements, such as confidentiality requirements, reporting requirements, background checks, etc.*

IV. TERM OF CONTRACT

This Contract is effective as of **date* and expires **date* but may be terminated earlier in accordance with provisions of this Contract. The Contract term may be extended for two additional one-year periods by mutual agreement of the parties.

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

V. COUNTY RESPONSIBILITIES

a. [*List the specific duties and responsibilities that the County must fulfill*.]

b. *****

c. *****

d. *

VI. FISCAL PROVISIONS

1. The maximum amount of *reimbursement/payment* under this Contract shall not exceed $[*indicate total amount of Contract*], of which $[*indicate federal dollars if applicable*] may be federally funded, and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.

2. **If basis of payment is by reimbursement, specify here and indicate that reimbursement will be based on attached budget (include as attachment to contract) unless changed and the method of approved change.*

3. **Specify the method used to receive payment, i.e. submission of invoices and information required to be contained therein*

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

5. County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any

State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.

6. **if applicable* Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.

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

VII. INDEMINIFICATION AND INSURANCE REQUIREMENTS

a. Indemnification

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

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

b. Additional Insured

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

c. Waiver of Subrogation Rights

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

d. Policies Primary and Non-Contributory

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

e. **Severability of Interests**

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

f. **Proof of Coverage**

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

g. **Acceptability of Insurance Carrier**

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

h. **Deductibles and Self-Insured Retention**

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

i. **Failure to Procure Coverage**

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

j. **Insurance Review**

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

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

receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

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

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

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

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

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

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

1. Premises operations and mobile equipment.
2. Products and completed operations.
3. Broad form property damage (including completed operations).
4. Explosion, collapse and underground hazards.
5. Personal injury.
6. Contractual liability.
7. $2,000,000 general aggregate limit.

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

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

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

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

5. **if applicable* Professional Liability – Professional Liability Insurance with limits of not less than one million ($1,000,000) per claim and two million ($2,000,000) aggregate limits

or

**if applicable* Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million ($1,000,000) and two million ($2,000,000) aggregate limits

or

**if applicable* Directors and Officers Insurance coverage with limits of not less than one million ($1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

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

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

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

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

VIII. RIGHT TO MONITOR AND AUDIT

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

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

IX. AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING (ARRA)

Use of ARRA funds and requirements

This Contract may be funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 ("ARRA"), signed into law on February 17, 2009. Section 1605 of ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance or repair of a public building or public work (both as defined in 2 CFR 176.140) unless all of the iron, steel and manufactured goods (as defined in 2 CFR 176.140) used in the project are produced in the United States. A waiver is available under three limited circumstances: (i) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality; (ii) Inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or (iii) Applying the domestic preference would be inconsistent with the public interest. This is referred to as the "Buy American" requirement. Request for a waiver must be made to the County for an appropriate determination.

Section 1606 of ARRA requires that laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 31). This is referred to as the "wage rate" requirement.

The above described provisions constitute notice under ARRA of the Buy American and wage rate requirements. Contractor must contact the County contact if it has any questions regarding the applicability or implementation of the ARRA Buy American and wage rate requirements. Contractor will also be required to provide detailed information regarding compliance with the Buy American requirements, expenditure of funds and wages paid to employees so that the County may fulfill any reporting requirements it has under ARRA. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

Contractor may also be required to register in the Central Contractor Registration (CCR) database at http://www.ccr.gov and may be required to have its subcontractors also register in the same database. Contractor must contact the County with any questions regarding registration requirements.

Schedule of Expenditure of Federal Awards

In addition to the requirements described in "Use of ARRA Funds and Requirements," proper accounting and reporting of ARRA expenditures in single audits is required. Contractor agrees to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by the Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations." This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512 (c).

In addition, Contractor agrees to separately identify to each subcontractor and document at the time of sub-contract and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds.

Contractor may be required to provide detailed information regarding expenditures so that the County may fulfill any reporting requirements under ARRA described in this section. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

Whistleblower Protection

Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-Federal contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to the implementation or use of recovery funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.

X. CORRECTION OF PERFORMANCE DEFICIENCIES

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

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

1. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or

2. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or

3. Withhold funds pending duration of the breach; and/or

4. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item “2” of this paragraph; and/or

5. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

XI. NOTICES

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

County of San Bernardino	*Contractor*
Department	*Address*
Address	

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

XII. ENTIRE AGREEMENT

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

IN WITNESS WHEREOF, the County of San Bernardino and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

COUNTY OF SAN BERNARDINO

►_____

Josie Gonzales, Chair, Board of Supervisors

Dated: _____

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

Laura H. Welch
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

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

By ►_____

(Authorized signature - sign in blue ink)

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

Title_____
(Print or Type)

Dated_____

Address_____

_____

Approved as to Legal Form	Reviewed by Contract Compliance	Presented to BOS for Signature
►_____	►_____	►_____
County Counsel		Department Head
Date _____	Date _____	Date _____