

**CITY OF CORONA  
PROFESSIONAL SERVICES AGREEMENT  
WITH JMDIAZ, INC.  
(PROFESSIONAL ENGINEERING DESIGN SERVICES – RADIO ROAD AT-GRADE RAILWAY  
CROSSING SAFETY IMPROVEMENTS - PRELIMINARY DESIGN, RFP 23-023AS)**

**1. PARTIES AND DATE.**

This Agreement is made and entered into this 17th day of May, 2023 (“Effective Date”) by and between the City of Corona, a municipal corporation organized under the laws of the State of California with its principal place of business at 400 South Vicentia Avenue, Corona, California 92882 (“City”) and JMDiaz, Inc., a California Corporation with its principal place of business at 18645 East Gale Ave., Suite 212 City of Industry, CA 91748-1363 (“Consultant”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

**2. RECITALS.**

**2.1 Consultant.**

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional engineering design services to public clients, is licensed in the State of California, and is familiar with the plans of City.

**2.2 Project.**

City desires to engage Consultant to render such services for the Radio Road At-Grade Railway Crossing Safety Improvements - Preliminary Design project, RFP 23-023AS (“Project”) as set forth in this Agreement.

**3. TERMS.**

**3.1 Scope of Services and Term.**

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional design consulting services necessary for the Project (“Services”). The Services are more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules, and regulations.

3.1.2 Term. The term of this Agreement shall be from May 17, 2023 to May 21, 2025 (“Term”), unless earlier terminated as provided herein. Consultant shall complete the Services within the Term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the Term of this Agreement one or more times by executing a written amendment pursuant to Section 3.6.8 below (each a “Renewal Term”). The terms “Term” and “Renewal Term” may sometimes be generally and collectively referred to as “Term” in this Agreement.

**3.2 Responsibilities of Consultant.**

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the Term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf

of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services within the Term of this Agreement, in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference, and in accordance with any other completion schedule or milestones which may be separately agreed upon in writing by the Parties. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, City shall respond to Consultant's submittals in a timely manner. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All Services performed by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows: Juan M. Diaz.

3.2.5 City's Representative. The City hereby designates Savat Khamphou, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates Juan M. Diaz, or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant agrees that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subconsultants shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the Term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its

sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations; Employee/Labor Certifications. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work or Services knowing them to be contrary to such laws, rules and regulations and without giving written notice to the City, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees, and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.9.1 Employment Eligibility; Consultant. By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Consultant. Consultant also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the Term of the Agreement. Consultant shall avoid any violation of any such law during the Term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Consultant shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Consultant's compliance with the requirements provided for in Section 3.2.9 or any of its sub-sections.

3.2.9.2 Employment Eligibility; Subcontractors, Consultants, Sub-subcontractors and Subconsultants. To the same extent and under the same conditions as Consultant, Consultant shall require all of its subcontractors, consultants, sub-subcontractors and subconsultants performing any work or Services relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.9.1.

3.2.9.3 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Consultant verifies that they are a duly authorized officer of Consultant, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (1) failure of Consultant or its subcontractors, consultants, sub-subcontractors or subconsultants to meet any of the requirements provided for in Sections 3.2.9.1 or 3.2.9.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Consultant under Section 3.2.9.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

3.2.9.4 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.2.9.5 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include,

but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.9.6 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Although the SCAQMD and CARB limits and requirements are more broad, Consultant shall specifically be aware of their application to "portable equipment", which definition is considered by SCAQMD and CARB to include any item of equipment with a fuel-powered engine. Consultant shall indemnify City against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

### 3.2.10 Insurance.

3.2.10.1 Time for Compliance. Promptly following the Effective Date of this Agreement, but in no event before Consultant commences any Services under this Agreement, Consultant shall provide evidence satisfactory to the City that it has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Agreement for cause.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subconsultants. Consultant shall also require all of its subconsultants to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury, advertising injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

3.2.10.3 Professional Liability. Consultant shall procure and maintain, and require its subconsultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate per claim.

a.

3.2.10.4 Insurance Endorsements. The insurance policies shall contain or be endorsed (amended) to include the following provisions:

(A) General Liability. The general liability policy shall state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to liability arising out of work or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection therewith (the endorsement form shall be at least as broad as ISO Form CG 20 10 11 85 or both CG 20 37 and one of the following: CG 20 10, CG 20 26, CG 20 33 or CG 20 38); and (2) the insurance coverage shall be primary insurance coverage as respects the City, its directors, officials, officers, employees, agents, and volunteers (the endorsement form shall be at least as broad as ISO CG 20 01 04 13). Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(B) Waiver of Subrogation – Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work or Services performed by the Consultant.

(C) All Coverages. If Consultant maintains broader coverage and/or higher limits than the minimums shown above, the City is entitled to the broader coverage and/or higher limits maintained by Consultant. Thus, any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

3.2.10.5 Other Provisions; Endorsements Preferred. Consultant shall endeavor to provide endorsements regarding the following provisions, but nonetheless understands, acknowledges and agrees that the following provisions shall apply and that failure to comply shall be considered to be a breach of this Agreement by Consultant:

(A) Waiver of Subrogation – All Other Policies. Consultant hereby waives all rights of subrogation any insurer of Consultant's may acquire against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of any insurance policy which arise from work or Services performed by the Consultant. Consultant understands, acknowledges and agrees that this provision is in full force and effect even if the City does not receive a waiver of subrogation endorsement from the insurer.

(B) Notice. Consultant shall either: (1) require its insurer to provide thirty (30) days prior written notice to the City before coverage is suspended, voided, or canceled; or (2) notify City in writing that such notice is not available and forward any notice of such actions to the City within two (2) business days from date of receipt by Consultant. Consultant understands, acknowledges and agrees that this provision is in full force and effect even if the City does not receive a waiver of subrogation endorsement from the insurer.

3.2.10.6 Claims Made Policies. The following provisions shall apply to all policies that provide coverage on a claims-made basis: (A) the retroactive date must be shown and must be before the date on which any Services under this Agreement commence; (B) the insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Project; and (C) if coverage is canceled or not renewed and is not replaced with another claims-made policy with a retroactive date prior to the date on which any Services under this Agreement commence, Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of Project.

3.2.10.7 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Consultant to provide proof of ability to pay losses and related investigation, claims administration and defense expenses within the deductible or self-insured retention. The deductible or self-insured retention may be satisfied by either the named insured or the City.

3.2.10.8 Acceptability of Insurers. Unless under the circumstances a different rating is otherwise acceptable to the City in its sole and absolute discretion, insurance is to be placed with insurers which are satisfactory to the City and which meet either of the following criteria : (1) an insurer with a current A.M. Best's rating no less than A-:VII and licensed as an admitted insurance carrier in California; or (2) an insurer with a current A.M. Best's rating no less than A-:X and authorized to issue the required policies in California.

3.2.10.9 Verification of Coverage. Consultant shall furnish City with original certificates of insurance, as well as amendatory endorsements or copies of the applicable policy language effecting coverage required by this Agreement. All documents must be received and approved by the City before any Services commence; provided, however, that failure to obtain the required documents prior to the commencement of Services shall not waive Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.10.10 Reporting of Claims. Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.2.10.11 Sub-Consultants. All sub-consultants shall comply with each and every insurance provision of this Section 3.2.10. Consultant shall therefore not allow any sub-consultant to commence work on any subcontract to perform any part of the Services until it has provided evidence satisfactory to the City that the sub-consultant has secured all insurance required under this Agreement.

3.2.10.12 Special Risk or Circumstances. The City reserves the right, in its sole and absolute discretion, to modify the requirements of this Section 3.2.10, including limits, based on any of the following: (A) the nature of the risk of the Services; (B) the prior experience of the insured; (C) the rating or other quality or characteristic of the insurer; (D) any special or unique coverage issues; and (E) any other special or unique circumstances.

3.2.11 Safety. Consultant shall execute and maintain its work and Services so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Services and the conditions under which the Services are to be performed.

3.2.12 Payment Bond. The California Department of Industrial Relations ("DIR") has communicated to the City that there is a possibility that a payment bond may be required for certain services provided in connection with a public works project. Since such a requirement is currently contrary to the industry standard for the services provided by Consultant under this Agreement and since there is no direct legal authority for this position, the City is not requiring Consultant to provide a payment bond at this time. However, the City hereby reserves the right to require the Consultant to obtain and provide a payment bond for some or all of the Services provided by the Consultant under this Agreement.

If the City determines that a payment bond is required for the Services pursuant to Civil Code Section 9550 or any other applicable law, rule or regulation, Consultant shall execute and provide to City a payment bond in an amount required by the City and in a form provided or approved by the City. In the event a payment bond is required, the City agrees to compensate Consultant for all documented direct costs incurred by Consultant for such payment bond. The Parties shall memorialize the terms of such additional compensation and any other terms and conditions associated with the payment bond in an amendment to this Agreement.

3.2.13 Accounting Records. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all

work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

### **3.3 Fees and Payments.**

3.3.1 Rates & Total Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit “C” attached hereto and incorporated herein by reference. The total compensation, including authorized reimbursements, shall not exceed Two Hundred and Thirty-Five Thousand Eight Hundred and Sixty-one Dollars (\$235,861.00) (“Total Compensation”), without written approval of City’s Representative. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 30 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the Term of this Agreement, City may request that Consultant perform Extra Work. As used herein, “Extra Work” means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from City’s Representative.

3.3.5 Prevailing Wages. Consultant is aware of the requirements of Chapter 1 (beginning at Section 1720 et seq.) of Part 7 of Division 2 of the California Labor Code, as well as Title 8, Section 16000 et seq. of the California Code of Regulations (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the Services involve federal funds or otherwise require compliance with the Davis-Bacon Fair Labor Standards Act, the Consultant and its subconsultants shall comply with the higher of the state or federal prevailing wage rates, and the “Prevailing Wage Laws” shall be deemed to include such federal wages laws. 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, Consultant and its subconsultants shall fully comply with the Prevailing Wage Laws for their employees and any others to whom such laws are applicable. Consultant and its subconsultants shall also be responsible for any and all violations and fines imposed on them pursuant to the Prevailing Wage Laws. Pursuant to SB 854, which amended the Prevailing Wage Laws, this Agreement would also be subject to compliance monitoring and enforcement by the California Department of Industrial Relations (“DIR”). Beginning April 1, 2015, no consultant or subconsultant may be awarded this Agreement unless registered with the DIR pursuant to Labor Code Section 1725.5. The City will report all necessary agreements to the DIR as required by the Prevailing Wage Laws. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant’s principal place of business and at the Project site. It is most efficient for the Consultant to obtain a copy of the prevailing wages in effect at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the DIR located at [www.dir.ca.gov/dlsr/](http://www.dir.ca.gov/dlsr/). In the alternative, Consultant may obtain a copy of the prevailing wages from the City’s Representative. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.3.6 Apprenticeable Crafts. If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, Consultant shall comply with the

provisions of Section 1777.5 of the California Labor Code with respect to the employment of properly registered apprentices upon public works when Consultant employs workmen in an apprenticeable craft or trade. The primary responsibility for compliance with said section for all apprenticeable occupations shall be with Consultant.

### **3.4 Termination of Agreement.**

3.4.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to City, as well as any authorized reimbursable expenses, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

### **3.5 Ownership of Materials and Confidentiality.**

3.5.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically, electronically or otherwise recorded or stored, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”). All Documents & Data shall be and remain the property of City, and shall not be used in whole or in substantial part by Consultant on other projects without the City's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to City reproducible copies of all Documents & Data, in a form and amount required by City. City reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by City at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to City upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to City any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data on file for a minimum of five (5) years following completion of the Project, and shall make copies available to City upon the payment of actual reasonable duplication costs. In addition, before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify City and provide City with the opportunity to obtain the documents.

3.5.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by the City.

3.5.3 Right to Use. City shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not



within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at City's sole risk. If City uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the City upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.5.4 Indemnification. Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by City of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.5.5 Confidentiality. All Documents & Data, either created by or provided to Consultant in connection with the performance of this Agreement, shall be held confidential by Consultant. All Documents & Data shall not, without the prior written consent of City, be used or reproduced by Consultant for any purposes other than the performance of the Services. Consultant shall not disclose, cause or facilitate the disclosure of the Documents & Data to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant that is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

### 3.6 General Provisions.

3.6.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective Parties may provide in writing for this purpose:

**Consultant:**

JMDIAZ, Inc.  
18645 East Gale Ave., Suite 212  
City of Industry, CA 91748-1363  
Attn: Juan M. Diaz

**City:**

City of Corona  
400 South Vicentia Avenue  
Corona, CA 92882  
Attn: Savat Khamphou, Public Works Department

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.6.2 Indemnification. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of, pertaining to, or incident to any alleged willful misconduct or negligent acts, errors or omissions of Consultant, its

officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all settlement amounts, expert witness fees and attorneys fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials officers, employees, agents, or volunteers.

3.6.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code Sections 900 *et seq.* prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the City.

3.6.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.6.5 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.6.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

3.6.6.1 Subconsultants; Assignment or Transfer. Consultant shall not subcontract any portion of the Services required under this Agreement, except as expressly authorized herein, without the prior written approval of the City. Subcontracts, if any, shall include a provision making them subject to all provisions of this Agreement. Consultant shall also not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to subcontract or take any other action not authorized herein shall be null and void, and any subconsultants, assignees, hypothecates or transferees shall acquire no right or interest by reason of such action.

3.6.7 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.6.8 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.6.9 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.6.10 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.6.6, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.6.11 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6.12 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the Term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.6.13 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.6.14 Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorney's fees and all other costs of such action.

3.6.15 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.6.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6.17 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

3.6.18 Federal Provisions. When funding for the Services is provided, in whole or in part, by an agency of the federal government, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (Federal Requirements) attached hereto and incorporated herein by reference ("Federal Requirements"). With respect to any conflict between such Federal Requirements and the terms of this Agreement and/or the provisions of state law, the more stringent requirement shall control.

**[SIGNATURES ON NEXT 2 PAGES]**

**CITY'S SIGNATURE PAGE FOR**  
**CITY OF CORONA**  
**PROFESSIONAL SERVICES AGREEMENT**  
**WITH JMDIAZ, INC.**  
**(PROFESSIONAL ENGINEERING DESIGN SERVICES – RADIO ROAD AT-GRADE RAILWAY**  
**CROSSING SAFETY IMPROVEMENTS - PRELIMINARY DESIGN, RFP 23-023AS)**

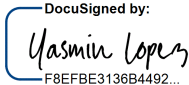
IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first written above.

**CITY OF CORONA**

By: Savat Khamphou  
Savat Khamphou  
Public Works Director

Reviewed By: Rosalva Ureno  
Rosalva Ureno  
City Traffic Engineer

Reviewed By: Aaron Cox  
Aaron Cox  
Senior Engineer Traffic

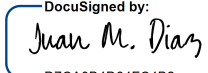
Reviewed By:   
Yasmin Lopez  
Purchasing Manager

Attest:  
Sylvia Edwards  
Sylvia Edwards  
City Clerk

**CONSULTANT'S SIGNATURE PAGE FOR**  
**CITY OF CORONA**  
**PROFESSIONAL SERVICES AGREEMENT**  
**WITH JMDIAZ, INC.**  
**(PROFESSIONAL ENGINEERING DESIGN SERVICES – RADIO ROAD AT-GRADE RAILWAY**  
**CROSSING SAFETY IMPROVEMENTS - PRELIMINARY DESIGN, RFP 23-023AS)**

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first written above.

**JMDIAZ, INC.**  
a California Corporation

By:   
\_\_\_\_\_  
D7CA0B4D64FC4B2...  
Juan M. Diaz  
CEO, Secretary, CFO

## EXHIBIT "A" SCOPE OF SERVICES

Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional design consulting services necessary for the Project. The Services are more particularly described herein.

### **A. PROJECT DESCRIPTION I. Location and Summary of Existing Conditions**

The City of Corona has been awarded funding for a Section 130 Highway Rail at-grade crossing safety improvement project at the Radio Road grade crossing. The Section 130 program is a federally funded program, administered by the States, for the elimination of hazards at highway-rail at-grade crossings. This location was identified as a candidate location via a data driven methodology which includes but is not limited to: train and vehicle volumes, geometric factors, pedestrians, buses and hazmat vehicles, and incident history.

The Radio Road at-grade railroad crossing is in the City of Corona, Riverside County. It is an asphalt paved road with two through lanes, no sidewalks and is approximately 26 feet wide. The crossing is located approximately 100 feet south of the Sampson Avenue and Radio Road intersection. This intersection has a STOP sign control for Sampson Avenue traffic only. The crossing is located approximately 140 feet north of the Quarry Street and Radio Road intersection. This intersection has a STOP sign control for Quarry Street traffic only. There is a bridge approximately forty feet to the north of the crossing. The width of the bridge is a limiting factor for this project as widening the bridge exceeds the program parameters.

The crossing is equipped with two CPUC Standard No. 9, automatic gate type warning devices. There are three tracks at this location, two main tracks and one other track. The track surfacing consists of concrete panels with a width of 48 feet and meets the road at 90 degrees.

The purpose of the project is to improve the safety at the Radio Road crossing by mitigating existing potential hazards to reduce the chance of future incidents. At Radio Road potential hazards identified include:

- The possibility of vehicles driving around lowered gate arms
- The lack of separated pedestrian pathways.
- Clear delineation of vehicle, bicycle, and pedestrian pathways on approach and through the crossing.

The use of federal funding also requires addressing pedestrian and bicycles pathways. Currently pedestrians and bicyclists share the roadway to cross the tracks. At this location it has been identified that safety would benefit by providing a separate sidewalk on one or both sides of the crossing and installing curb and gutter where applicable to separate the types of movements. The sidewalk will link to existing sidewalk facilities located on both sides of the crossing. Pedestrian pathway treatments may differ across the bridge structure (such as raised curb or striping) to delineate a pedestrian pathway and the vehicular lanes. Providing these pathways will provide a safer crossing pathway for pedestrians. As part of installing sidewalk several utility poles will need to be relocated to provide required ADA access.

BNSF Railroad San Bernardino Subdivision Crossing Information:

<b>At-Grade Crossing</b>	<b>Crossing Number</b>
Radio Road	026521R

## **II. Required Grade Crossing Improvements**

The California Public Utilities Commission (CPUC) Rail Crossing Engineering Section made final recommendations for the safety improvements to be funded under the Section 130 program at the Radio Road at-grade railroad crossing, based on recommendations developed by a preliminary diagnostic team that analyzed the existing conditions with respect to vehicular travel, bicycle travel, pedestrian pathways, and rail traffic.

The City's required improvements include, but are not limited to the following:

- a. Raised Median Islands on both approaches to the crossing
- b. Pedestrian treatments of sidewalk, detectable warning tiles, curb and gutter, and accessible curb ramps
- c. Signing and Striping
- d. Street Lighting
- e. Utility relocations

## **III. Project Coordination**

The City is currently evaluating the Radio Road grade crossing for inclusion in a future Quiet Zone project. Preliminary Engineering of safety enhancements for this crossing should take this into account and should coordinate efforts. This project will also require coordination with local utilities to successfully relocate utilities affected by the proposed improvements.

## Phase 1: Project Initiation / Management

### Task 1.1: Project Administration, Meetings and Coordination

The Consultant will attend one kickoff meeting and begin with biweekly project coordination/status meetings with City staff. The Consultant will also attend strategic City Council and Committee meetings that may be required. This task assumes a total of eight (8) meetings. The Consultant will provide meeting minutes for coordination meetings. The Consultant will prepare a baseline project schedule that will be updated and discussed during bi-weekly meetings. The schedule is designed to be a road map for project activities and interfaces with other parties including agencies, railroad entities and utility companies. The Consultant's Project Manager will work diligently to keep the project on schedule in accordance with Section 130 and CPUC understanding and requirements. Delays will be prevented and, in worst cases, recovered by expediting future tasks.

The Consultant will provide monthly progress reports that will accompany invoicing.

***Deliverable(s):***

Updated schedule, monthly invoices and progress reports as well as meeting minutes.

### Task 1.2: Right of Entry (ROE) Application

If required by the project, The Consultant can prepare a Right of Entry (ROE) permit application required to allow the City and the Consultant's Team to enter railroad corridors to conduct field activities within 25 feet from the nearest track. The construction costs for flagging and obtaining Railroad Protective Liability Insurance (RLPI) are not included in this agreement. This task includes "rush" handling and related fees to obtain the ROE before the typical 45-day period.

***Deliverable(s):***

Right of Entry permit to cover consultant team activities within railroad right of way. For design consulting purposes, the Consultant's cost will include flagging for up to 3 days.

### Task 1.3: Research/Data Collection/Field Review

The Consultant will gather available data consisting of correspondence, studies, plans and CAD files related to the existing conditions at the applicable grade crossings along the BNSF railroad corridor. The Consultant will obtain data from FRA, CPUC, BNSF, SCRRA and the City. The Consultant assumes that current information, such as as-built plans and other data obtained from the City, will be made available by the City at no cost to the Consultant.

Uniquely relying on its former role representing SCRRA/MetroLink in the City of Corona, the Consultant will conduct a pre-diagnostic review to fully assess the likely improvements to be required by MetroLink and CPUC. This step is essential to adequately define the proposed improvements and develop an effective strategy prior to meeting with MetroLink and CPUC.

***Deliverable(s):***

Digital (pdf) copies of plans, studies and photographs obtained for this task.



## **Phase 2: Preliminary Engineering**

### **Task 2.1: Field Survey and Right of Way Engineering**

The Consultant's surveying subconsultant, FHA, will conduct detailed topographic survey including cross sections at every 25 feet and covering the roadway width, plus 15 feet outside of roadway width limits. Field survey will cover 250 feet of the at-grade crossing in each direction from the middle track centerline.

***Deliverable(s):***

Digital topographic map.

### **Task 2.2: Geotechnical Investigations and Report**

The Consultant's geotechnical subconsultant, GEO Advantec, Inc. (GAI), will conduct concise pavement analysis of the existing crossing based on up to 2 corings to be taken at key locations within the crossing.

***Deliverable(s):***

Draft and Final Geotechnical Report.

### **Task 2.3: Traffic / Pedestrian Study**

The Consultant, with the assistance of vendor NDS, will conduct a concise yet comprehensive traffic and pedestrian study to determine actual crossing users and traffic mix as major trucks have been observed driving through the crossing. The study results will facilitate pavement design to account for trucks as well as pedestrian counts and walking routes to determine the need for pedestrian treatments as previously raised by CPUC at railroad crossings in the City.

The study will include the following but not be limited to:

- Measuring daily pedestrian counts for seven consecutive days. This will rely on videotaping to capture counts day and night.
- Quantify percentage of observed pedestrians for adults versus youth.
- Map distances to nearest schools.
- Classification counts to determine the current truck mix including vehicles transporting hazardous materials, school buses and transit buses through the crossing.

***Deliverable(s):***

Draft and Final Traffic/Pedestrian Study.

### **Task 2.4: Utility Coordination and Potholing**

The Consultant will conduct utility coordination activities to verify the presence and location of existing utilities and avoid conflicts prior to construction efforts. The Consultant will mail design plans in three separate instances and field verify conditions to validate existing utilities and identify possible conflicts. In cases where locations are uncertain and the possibility for conflicts is high, the Consultant will have C Below conduct potholing at key locations to verify utility locations and depths. This task assumes up to five (5) locations for potholing by C Below.

***Deliverable(s):***

Copies of utility requests sent to utility companies as well as utility pothole data sheets for utilities potholed by C Below.

**Task 2.5: 30% Conceptual Plans**

The Consultant will prepare a conceptual exhibit, in AutoCad or MicroStation, illustrating existing and proposed grade crossing improvements. The conceptual exhibit will confirm whether the proposed crossing improvements will or will not encroach within BNSF right of way or private properties. This includes an assessment of the potential need for installing pedestrian treatments and the right of way to accommodate them.

The design plans will be prepared in accordance with City and BNSF design standards as well as applicable CPUC and California Manual of Uniform Traffic Control Devices (MUTCD) requirements.

***Deliverable(s):***

Conceptual plans/exhibits.

**Task 2.6: Conceptual Cost Estimates**

The Consultant will prepare conceptual cost estimates detailing construction, maintenance, permitting and other related grade crossing improvement costs.

***Deliverable(s):***

Conceptual cost estimates.

**Task 2.7: Field Diagnostic Meetings**

The Consultant will conduct one virtual pre-diagnostic meeting (following BNSF's current Covid guidelines) in advance of one field diagnostic meeting with the City, CPUC and BNSF to present the conceptual design prepared in Task 2.5 and field verify crossing and equipment conditions as well as obtain diagnostic recommendations (e.g., pedestrian treatments) for proposed safety enhancement measures and crossing improvements. The diagnostic meeting presents the preliminary design plans to all parties for the purpose of obtaining input from all rail entities prior to beginning the final design effort. The diagnostic meeting sets the basis of the proposed improvements and initiates the railroad and agency review process. If needed, the Consultant will schedule a follow up diagnostic meeting to discuss confirming or altering diagnostic improvements.

***Deliverable(s):***

Diagnostic meeting minutes.

**Task 2.8: Environmental Documentation**

RFP No. 23-023AS

Page 18

Radio Road At-Grade Railway Crossing Safety Improvements – Preliminary Design

The Consultant's environmental subconsultant, Blodgett Baylosis Environmental Planning (BBEP), will prepare documentation needed to obtain NEPA and CEQA clearance for the project recognizing that Section 130 funding is involved. Environmental documentation will rely on the project's Categorical Exclusion status since the at-grade crossing exists and the proposed improvements will enhance its safety. An Initial Study/Mitigated Negative Declaration (IS/MND) is not anticipated to be required for this project.

### **Phase 3: Final Design and Permitting**

#### **Task 3.1: 60% Plans**

After review and approval of the conceptual grade crossing recommendations, the Consultant will prepare preliminary construction plans for the proposed crossing improvements. The Consultant Team will prepare preliminary plans in AutoCAD or MicroStation illustrating existing conditions and the proposed grade crossing improvements. The design plans will be prepared in accordance with City, CPUC and BNSF design standards as well as applicable California Manual of Uniform Traffic Control Devices (MUTCD) requirements.

The preliminary design package includes the following drawings:

#### **Title Sheet**

The Consultant will prepare a title sheet containing a vicinity map, general and construction notes, construction legend, list of affected utilities, a drawing list and other details covering the project limits.

#### **Typical Sections and Detail Plans**

The Consultant will prepare typical sections and details at appropriate scales to illustrate existing and proposed roadway and structural pavement sections as well as provide miscellaneous construction sections and details.

#### **Roadway Improvement Plan**

The Consultant will prepare detailed roadway plan consisting of plan and profile at a scale of 1"=20', on City title block and detailing existing and proposed roadway features and details. The roadway plans will include recommended access ramps, driveways, and sidewalk improvements.

#### **Grade Crossing Plan**

The Consultant will prepare a detailed grade crossing plan consisting of plan and profile at a scale of 1"=20', on City title block and detailing existing and proposed grade crossing protection, features and details. The grade crossing plan will include proposed warning devices, crossing panel improvements, roadway and sidewalk improvements as well as pedestrian treatments. The grade crossing plans will be prepared to comply with CPUC and BNSF requirements.

#### **Utility Relocation Plan**

The Consultant will prepare a utility relocation plan for the existing power pole at the southeast quadrant which limits visibility to the existing crossing gate flasher(s). The plans will consist of plan and cross section and will be prepared at a scale of 1"=20' (horizontal) and no scale (vertical).

### **Intersection Plans**

The Consultant will prepare detailed intersection plans at a scale of 1"=10', including intersection grids with elevations. The intersection plans will detail proposed widening and include curb ramps.

### **Signing and Striping Plan**

The Consultant will prepare a detailed signing and striping plan at a scale of 1"=40' using the City-provided title block. These plans will identify existing and proposed signing and striping features including sidewalk and bikeway features, if any.

### **Street Lighting Plans**

The Consultant will review existing lighting and prepare street lighting plans at a scale of 1"=40' and detailing the proposed undergrounding of existing roadway lighting with standard pull boxes and light standards. Lighting plan designs will be coordinated with our landscape architect, if needed, to ensure that proposed landscaping does not conflict and impede illumination levels required for proposed lighting.

### **Landscaping and Irrigation Plans**

Our landscape architect subconsultant, Steven A. Ormenyi and Associates, will prepare landscaping and irrigation plans at appropriate scales to detail proposed low height landscaping features and related irrigation within proposed sidewalks and raised median islands, as appropriate.

### **Traffic Staging Plans**

The Consultant will prepare detailed traffic control plans at a scale of 1"=40' for up to two construction phases for roadway segments.

### **Optional Drawings**

The following drawings are not currently included in this proposal due to the straightforward nature of the project as confirmed with City staff. The Consultant, however, can prepare optional plans described below following negotiation and scope amendment with City staff.

### **Traffic Signal Modification Plans**

The Consultant may prepare traffic signal modification plans for each signalized intersection modified. The traffic signal modification plans will be prepared at a scale of 1"=20' and will include equipment schedules, conductor schedules as well as detail signal equipment modifications and traffic signal loop replacement.

### Traffic Signal Interconnect Plans

The Consultant may prepare traffic signal interconnect plans covering the signalized intersections nearest the project limits. The traffic signal interconnect plan will be prepared at a scale of 1"=40' and will include interconnected signal details.

### Railroad Signal Plans

Railroad signal plans are assumed to be prepared by BNSF who will perform railroad construction with its own forces and paid for directly by CPUC.

### Storm Water Pollution Prevention Plans (SWPPP)

Considering the proposed improvements will be less than an acre in area, SWPPP to prevent stormwater pollution during construction are not anticipated nor included for this project.

### Deliverable(s):

The following are the estimated plan sheets and related quantities for the project:

Plan Sheets	Qty
Title Sheet	1
Typical Sections and Detail Plans	1
Roadway Improvement Plan	1
Grade Crossing Plan	1
Utility Relocation Plan	1
Intersection Grid Plans	1
Cross Sections	1
Signing and Striping Plans	1
Street Lighting Plans	2
Landscaping and Irrigation Plans	3
Traffic Staging Plans	3
<b>Total</b>	<b>16</b>
<b>Total Plan Set*</b>	<b>15</b>

\* Excludes cross sections.

### Tasks 3.2 – Specifications

The Consultant will prepare technical specifications and Bid Package using Greenbook format as provided by the City. The Consultant will provide hard copy and digital (MS Word) formatted specifications to the City. This task assumes that the City will provide boilerplate and ultimate packaging of the specifications. Specifications will be prepared to comply with Federal requirements, as appropriate, and will include current prevailing wage rates and will specify “Buy America” products, as required.

### **Task 3.3 – Construction Bid Items and Opinion of Probable Construction Cost**

The Consultant will prepare a list of construction bid item quantities and opinion of probable construction cost for the project elements, which will include a proposed item list, estimated quantities, and current unit costs resulting in line-item cost estimates. At the first plan check, a preliminary cost estimate will be developed for comparison with previous project budget estimates. Back-up of cost estimate calculations showing quantities and unit costs per sheet will be provided to the City for review with each submittal. During final design, The Consultant will prepare a final estimate to validate construction bids by contractors during the bidding process.

***Deliverable(s):***

Construction Bid Items and Opinion of Probable Construction Cost.

### **Task 3.4: 90% PS&E Design**

Upon receiving review comments from the City for the 60% level submittal, the Consultant’s Team will address the comments and prepare and submit the 90% PS&E design package.

***Deliverable(s):***

90% level plans, specifications and estimate.

### **Task 3.5: 100% PS&E Design / Bid Package**

Upon receiving review comments from the City for the 90% level submittal, the Consultant’s Team will respond to comments and prepare and submit the 100% PS&E design package.

***Deliverable(s):***

- Pedestrian Study
  
- 30% Conceptual Design Plans (soft copy in pdf format) • 60% PS&E Design Package - (24”x36” size plans, up to 10 sets, soft copy in pdf format)
  
- 90% PS&E Design Package - (24”x36” size plans, up to 10 sets, soft copy in pdf format)
  
- 100% Design Bid Package of Plans, Specifications, Estimates (24”x36” size plans, 5 sets, soft copy in pdf format)
  
- Technical Project Specifications

### **Task 3.6: Public Meetings/Presentations**

The Consultant will assist the City in presenting the proposed designs to local community stakeholders. This task assumes the preparation of graphics and a PowerPoint presentation for presentation to the following City Meetings:

- City Traffic and Transportation Commission
- Planning Commission
- City Council

Up to two public meetings are included in this task.

***Deliverable(s):***

PowerPoint presentation and visual aids including presentation boards.

**Task 3.7: Easement/License Coordination**

Recognizing that the proposed crossing improvements may require the acquisition of right of way from BNSF, The Consultant will assist in coordinating needed right of way acquisition with BNSF in support of BNSF's preparation of easements or licenses required for new improvements to be constructed within BNSF property. The easements and/or licenses are assumed to initiate and be prepared by BNSF and be executed by all parties.

***Deliverable(s):***

Coordinate draft and final easement or license agreements initiated by BNSF.

**Task 3.8: Construction and Maintenance (C&M) Agreement**

If needed, the Consultant will coordinate the preparation of a Construction and Maintenance (C&M) agreement defining the roles and responsibilities of the City and BNSF, if any. The C&M agreement will define payment responsibilities for grade crossing improvements including an estimate for railroad signal improvements to be prepared by BNSF.

***Deliverable(s):***

Coordinate draft and final C&M agreement initiated by BNSF and executed by all parties involved.

**Task 3.9: CPUC Application**

The Consultant can prepare one (1) application to be submitted to the CPUC for the proposed grade crossing modifications. There are two types of applications that can be prepared depending on the extents of the improvements. The preparation of an application would cover ultimate (i.e., permanent) improvements and not interim improvements during construction. This task assumes a short form application, better known as a General Order 88B (GO-88B) application will be required.

The long form application typical includes three exhibits detailing the proposed improvements and may include the redefinition of the existing grade crossing boundaries. A legal description for each modified crossing may be included in the application to the CPUC if the crossing boundaries require redefinition. Legal descriptions would be prepared by our surveying subconsultant, FHA, if necessary. The long form application and related exhibits are not included in this task.

***Deliverable(s):***

GO-88B application.

**Phase 4: Advertising and Bidding Support**

#### **Task 4.1: Attend Pre-Bid Meeting**

The Consultant will attend the pre-bid meeting to discuss the project and respond to questions. The Consultant will prepare meeting minutes.

**Deliverable(s):** Meeting minutes.

#### **Task 4.2 – Technical Support and Respond to Bidder’s Questions**

The Consultant will assist in answering questions regarding omissions or conflicts in the design during the pre-bid meeting and bidding process. The Consultant will verify and evaluate bids, including accuracy/quality checks as well as provide input to the recommended lowest bidder for contract award.

**Deliverable(s):** Questions Log and Bid Evaluation Matrix.

#### **Task 4.3 – Addenda Preparation**

The Consultant will prepare addenda regarding omissions or conflicts in the design. This task assumes one addendum will be required.

**Deliverable(s):** Addenda Contract Documents.

The Consultant will provide design support during construction including responding to requests for information (RFI’s), reviewing shop drawings for compliance and preparing as-built plans following construction completion.

### **Phase 5: Design Support During Construction**

#### **Task 5.1 – Attend Pre-Construction Meeting**

The Consultant will attend the pre-construction meeting to discuss the project and respond to questions. The Consultant will prepare meeting minutes.

**Deliverable(s):** Meeting minutes.

#### **Task 5.2 – Site Visits and Observations**

The Consultant will conduct field visits and perform site observations to ascertain project progress and provide observation reports. This task assumes up to three (3) visits.

**Deliverable(s):** Observation reports.

#### **Task 5.3 – Review Shop Drawings and Submittals**

The Consultant will review shop drawings and submittals provided by the Contractor.

**Deliverable(s):** Document log and responses in writing.

#### **Task 5.4 – Review and Respond to RFIs and RFCs**

The Consultant will provide responses to Contractor RFIs and RFCs.

#### **Task 5.5 – Review and Respond to Change Orders and Claims**

The Consultant will review and respond to Change Orders and proposals and estimates. The Consultant will assist with claims mitigation associated with design issues.



**Deliverable(s):** Document log and responses in writing.

### **Task 5.6 – Prepare Record “As-Built” Plans**

Upon construction completion, The Consultant will assist the City by preparing as-built plans and including design modifications recorded during construction. The as-built plans will be submitted to the City for record purposes.

## **Management Plan**

The Consultant’s Management Plan, applicable to on-site and off-site tasks, consists of three primary components, namely, People Management, Project Management, and Quality Management. The first focuses on leading the team to achieve the desired project objectives. The latter two consist of using appropriate project controls to effectively manage the project deliverables, schedule and budget. A typical project would be managed in accordance with each component to meet the City’s objectives in a timely manner. Each one of these components is briefly discussed below.

### **People Management**

People management consists of team leadership through effective planning, staffing, and communication as discussed below.

### **Planning**

After the kickoff meeting with the City, the Consultant will hold an internal team meeting to discuss the project’s objectives, milestones, staffing needs, schedule, and task responsibilities. The goal will be to establish a realistic plan to meet all project requirements.

### **Staffing**

During the Consultant’s internal team meeting, the Consultant will prepare a team staffing plan to ensure the right people are available at the right time for each project or task. In addition, the Consultant’s Team is committed to delivering quality and timely services within the City’s time and budget goals. The Consultant has added multiple professionals to work as squads and manage multiple projects conveniently. In addition, the Consultant have provided sufficient resource capacity to perform the projects or tasks in a timely manner, and confirm that the key personnel proposed for the project will be available for the duration of the project.

## **Communication**

The Project Manager will work closely with each task leader to develop the proposed submittals in accordance with the project requirements. Through the use of telephone conferencing, faxes, and e-mails, the project team will discuss project issues, progress and reviews on a periodic basis to meet each project milestone. The ultimate objective is to lead the team to the desired objectives through effective and timely communication.

The Consultant’s Project Manager’s experience with the City and staff augmentation programs confirms that the best way to minimize delays and address unforeseen problems is to proactively communicate with the City’s Project Manager (PM) to alert him or her of potential issues. In addition, often the City PM is so involved on other projects that he or she may not effectively communicate changes in the City’s position or direction regarding a project. These situations can

be avoided with proper communication and documentation through meetings, email and telephone conversation minutes.

## **Project Management**

For the project development work, we propose to use a Project Management and Control System that we have used successfully on similar multi-disciplined transportation infrastructure design projects. The monitoring and controlling of schedules and budgets will provide a means to ensure that the proposed work plan is implemented effectively in an efficient and timely manner.

The core of the Consultant's system is a monthly Project Management Report comprised of two sections:

***Design Status Report*** - Arranged by task, this report discusses budget and schedule; design problems which need to be resolved; coordination required between the project team, the client staff and other agencies; and actual versus planned progress.

***Project Control Report*** - This is a computerized report which tracks budget and schedule and is refined and customized to meet the specific project needs. This report is issued monthly, but can easily be produced more often, if required, for more frequent project control. It is critical that the project management system be flexible and able to accommodate scheduling adjustments that may occur. The Consultant's system requires the Project Manager to re-plan the project, as necessary, to reflect an accurate and up-to-date schedule. In the event of a schedule shift, a recovery plan will be developed and implemented to either meet the original milestone dates or other dates mutually agreed to by the City and the Consultant. The schedule will provide a tool with which the Project Manager can closely monitor the scheduled timing of each task and permit overall management control of the project.

## **Project Scope, Schedule and Cost Control**

The monitoring and controlling of project scope, schedule and cost will provide a means to ensure that the proposed work plan is implemented in an efficient and timely manner.

Initially, the scope of work will be carefully negotiated with the City to ensure that we understand your intent and expectations for the project. The negotiated scope will be translated into a written format with identified budgets, milestones and deliverables. Anticipated exclusions and items to be provided by the City, Caltrans and other public agencies will be defined, reviewed and discussed. A detailed project schedule will be developed that outlines the significant project milestones and their estimated completion date based on our experience with similar projects with local agency oversight and approval. Control of scope, schedule and cost will be achieved using the following Project Management Control System that the Consultant's managers are using successfully on similar projects. The core of this system is a monthly Project Management Information System comprised of the following three elements:

### ***Critical Path Method (CPM) Schedule***

The Consultant has in-house staff with expertise in Microsoft Project Planner. A comprehensive project schedule will be initiated by our Project Manager and will serve as the controlling document

for tracking progress of the work. This schedule will form the framework for measuring our actual performance to planned performance and can be used for periodic updating of the City's work plan and financial planning. The project team will meet prior to beginning work on the project to collectively determine the smaller work tasks required to complete the major work activities as established in the scope of work. A sequencing plan of these smaller work tasks, using precedence format, will be developed which, in turn, will determine the overall schedule. The series of work tasks and resulting schedule will be diagrammatically exhibited as a Critical Path Method (CPM) flow chart. This flow chart, which highlights the critical path, will be used to determine the intermediate project milestones.

### ***Project Control Report***

Prior to beginning the project, the Project Manager will prepare the Project Control Document which defines major tasks, subtasks, milestone submittals and task budgets. This information is entered into our centralized accounting system that will provide the Project Manager with a weekly report of project budget status based on weekly time cards and direct expense information. The Project Manager will estimate project completion weekly and compare his estimate with the actual project expenditures to date. This comparison gives him a "snapshot" project cost evaluation on a weekly basis. The Project Manager, with assistance from the Project Engineers and subconsultants, will prepare a monthly cost-to-complete estimate that is a valuable tool in keeping the project on budget and validating the Project Manager's estimate of project progress.

### ***Project Status Report***

Arranged by task, this bi-weekly internal report discusses budget and schedule; project issues which need to be resolved; coordination required between the project team, City staff and other agencies; and actual versus planned progress.

## **Quality Control/Quality Assurance**

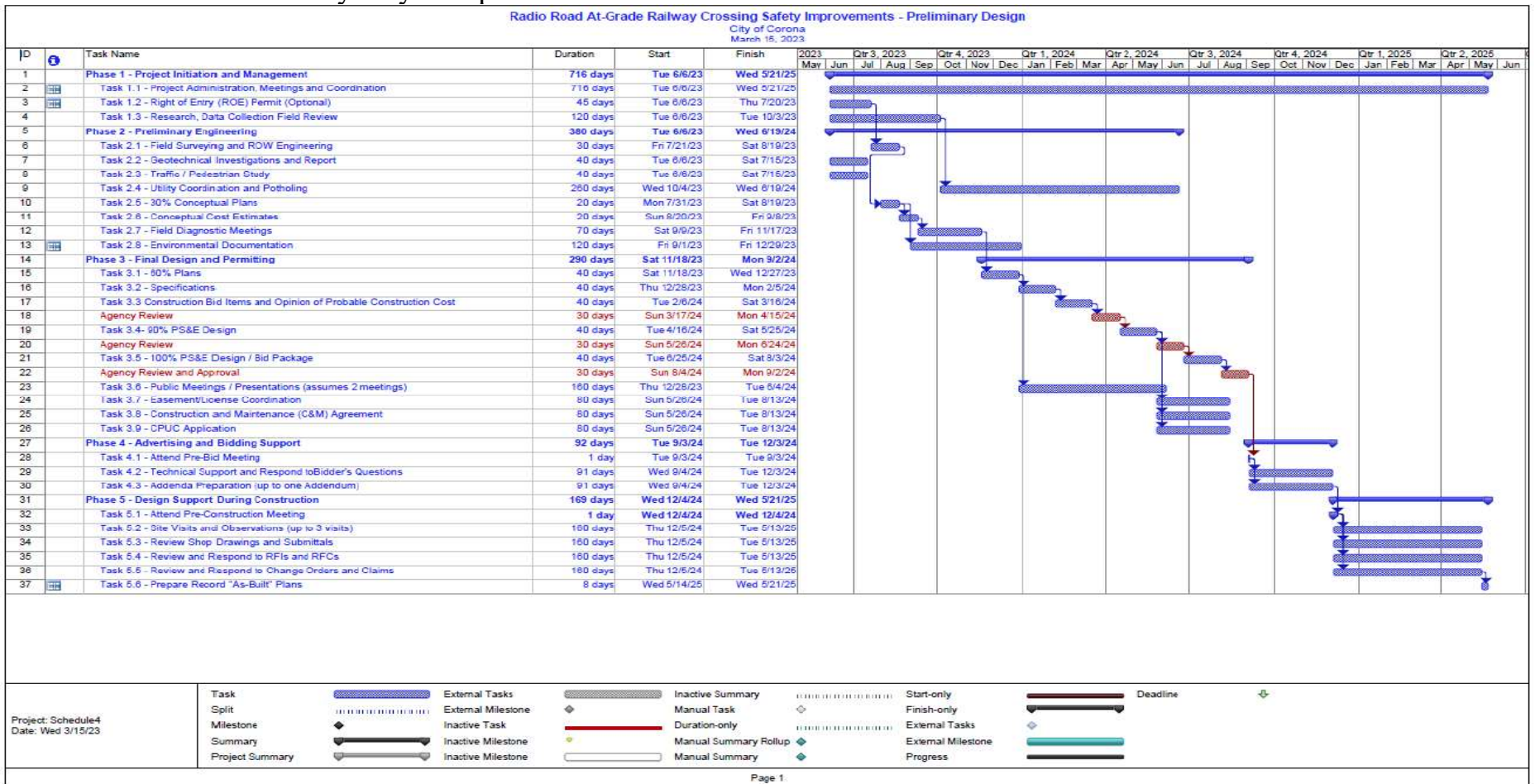
Quality Control/Quality Assurance (QA/QC) is a process that begins with the preparation of the proposal and signing of the contract. Understanding Metro's requirements and expectations is the first step in providing a quality project. The Consultant has developed an office environment and philosophy which encourage quality. The Consultant's quality assurance program includes preparation of a Quality Control (QC) Plan for each individual project which specifies the responsibilities, requirements and procedures for quality control. The plan is modeled after the ASCE publication, "Quality in the Constructed Product," is flexible, and can be modified to respond to specific client requirements. The functions of the Consultant's quality assurance program:

- Establish a quality review team for the project. The quality review team is responsible for monitoring adherence to procedures and practices by:
  - a. conduct surveillance of project activities together with reviews of documentary evidence of their performance,
  - b. verify calculations and other analytical work,
  - c. provide independent auditing to check that the quality control and technical procedures are being properly implemented and followed,
- Define the duties and responsibilities of those personnel in the organization having significant quality assurance responsibilities (i.e., Principals, Project and QA/QC Managers).
- Provide value engineering to avoid unnecessary project costs.



## EXHIBIT "B" SCHEDULE OF SERVICES

Consultant shall complete the Services within the Term of this Agreement, and shall meet any other reasonable schedules and deadlines established by City's Representative.





**EXHIBIT “D”  
FEDERAL REQUIREMENTS**

The Work is to be funded with monies obtained by the City pursuant to State of California Railroad-Highway Crossings Program, also known as Section 130 Program Supplement No. 50LP295, Caltrans Project ID 0823000007, entered into between the City and the State of California, Department of Transportation (“Caltrans”) on or about October 18, 2022 (“Program Supplement”), subject to federal-aid funding under Local Agency Master Agreement No. 08-5104F15, entered into between the City and Caltrans on or about December 7, 2017 (“Grant Agreement”). Consultant and all subconsultants shall comply with all applicable federal and state laws, rules, regulations and permits, and funding agreement requirements, including but not limited to the Grant Agreement attached hereto as Appendix “A” and incorporated herein by reference and Caltrans Section 130 Program Supplement 50LP295, Project ID 0823000007 attached hereto as Appendix “B” in these RFP Documents and incorporated herein by reference. Consultant’s proposal amount shall include all costs associated with compliance with the Grant Agreement and Program Supplement funding requirements. While it shall be Consultant’s sole responsibility to research and ensure compliance with all requirements of the Grant Agreement and Program Supplement funding documents, for reference purposes only, such requirements include, but are not limited to:

- a. Requirements set forth in Article I, Provision 4, of the Grant Agreement to perform all services in accordance with the Section 130 Program Supplement including, but not limited to, California Streets and Highways Code section 114(b) and California Government Code 14038 and the specific regulations and its provisions including Exhibits A, B and C to the Program Supplement; as well as all applicable federal, state and local laws, regulations and ordinances, all applicable Cal Trans policies and procedures, and all applicable Cal Trans published manuals, including but not limited to, the Grant Program Guidelines.
- b. Compliance with Fair Employment Practices Addendum (Exhibit A to the Grant Agreement) and the Nondiscrimination Assurances (Exhibit B to the Grant Agreement) requirements set forth in Article I - Project Administration, Provision 19, of the Grant Agreement, attached hereto and incorporated herein by reference. Any agreement entered into by City and Consultant for the performance of Project related work shall be deemed essential parts of such agreement and will be enforced by Consultant as verified by City. Consultant agrees to include the nondiscrimination and compliance provisions of this clause and those set forth in Exhibits A (Fair Employment Practices Addendum)

The Work is to be funded with monies obtained by the City pursuant to State of California Railroad-Highway Crossings Program, also known as Section 130 Program Supplement No. 50LP295, Caltrans Project ID 0823000007, entered into between the City and the State of California, Department of Transportation (“Caltrans”) on or about October 18, 2022 (“Program Supplement”), subject to federal-aid funding under Local Agency Master Agreement No. 08-5104F15, entered into between the City and Caltrans on or about December 7, 2017 (“Grant Agreement”). Consultant and all subconsultants shall comply with all applicable federal and state laws, rules, regulations and permits, and funding agreement requirements, including but not limited to the Grant Agreement attached hereto as Appendix “A” and incorporated herein by reference and Caltrans Section 130 Program Supplement 50LP295, Project ID 0823000007 attached hereto as Appendix “B” in these RFP Documents and incorporated herein by reference. Consultant’s proposal amount shall include all costs associated with compliance with the Grant Agreement and Program Supplement funding requirements. While it shall be Consultant’s sole responsibility to research and ensure compliance with all requirements of the Grant Agreement and Program Supplement funding documents, for reference purposes only, such requirements include, but are not limited to:

- a. Requirements set forth in Article I, Provision 4~~l~~ of the Grant Agreement to perform all services in accordance with the Section 130 Program Supplement including, but not limited to, California Streets and Highways Code section 114(b) and California Government Code 14038 and the specific regulations and its provisions including Exhibits A, B and C to the Program Supplement; as well as all applicable federal, state and local laws, regulations and ordinances, all applicable Cal Trans policies and procedures, and all applicable Cal Trans published manuals, including but not limited to, the Grant Program Guidelines.
- b. Compliance with Fair Employment Practices Addendum (Exhibit A to the Grant Agreement) and the Nondiscrimination Assurances (Exhibit B to the Grant Agreement) requirements set forth in Article I - Project Administration, Provision 19, of the Grant Agreement, attached hereto and incorporated herein by reference. Any agreement entered into by City and Consultant for the performance of Project related work shall be deemed essential parts of such agreement and will be enforced by Consultant as verified by City. Consultant agrees to include the nondiscrimination and compliance provisions of this clause and those set forth in Exhibits A (Fair Employment Practices Addendum)



The Work is to be funded with monies obtained by the City pursuant to State of California Railroad-Highway Crossings Program, also known as Section 130 Program Supplement No. 50LP295, Caltrans Project ID 0823000007, entered into between the City and the State of California, Department of Transportation (“Caltrans”) on or about October 18, 2022 (“Program Supplement”), subject to federal-aid funding under Local Agency Master Agreement No. 08-5104F15, entered into between the City and Caltrans on or about December 7, 2017 (“Grant Agreement”). Consultant and all subconsultants shall comply with all applicable federal and state laws, rules, regulations and permits, and funding agreement requirements, including but not limited to the Grant Agreement attached hereto as Appendix “A” and incorporated herein by reference and Caltrans Section 130 Program Supplement 50LP295, Project ID 0823000007 attached hereto as Appendix “B” in these RFP Documents and incorporated herein by reference. Consultant’s proposal amount shall include all costs associated with compliance with the Grant Agreement and Program Supplement funding requirements. While it shall be Consultant’s sole responsibility to research and ensure compliance with all requirements of the Grant Agreement and Program Supplement funding documents, for reference purposes only, such requirements include, but are not limited to:

- a. Requirements set forth in Article I, Provision 4~~l~~ of the Grant Agreement to perform all services in accordance with the Section 130 Program Supplement including, but not limited to, California Streets and Highways Code section 114(b) and California Government Code 14038 and the specific regulations and its provisions including Exhibits A, B and C to the Program Supplement; as well as all applicable federal, state and local laws, regulations and ordinances, all applicable Cal Trans policies and procedures, and all applicable Cal Trans published manuals, including but not limited to, the Grant Program Guidelines.
- b. Compliance with Fair Employment Practices Addendum (Exhibit A to the Grant Agreement) and the Nondiscrimination Assurances (Exhibit B to the Grant Agreement) requirements set forth in Article I - Project Administration, Provision 19, of the Grant Agreement, attached hereto and incorporated herein by reference. Any agreement entered into by City and Consultant for the performance of Project related work shall be deemed essential parts of such agreement and will be enforced by Consultant as verified by City. Consultant agrees to include the nondiscrimination and compliance provisions of this clause and those set forth in Exhibits A (Fair Employment Practices Addendum)

agreements exceeding \$100,000 and require all such sub-recipients to certify and disclose accordingly.

1. Requirement for Consultant to ensure that any agreement entered into between Consultant and all subconsultants and subcontractors pursuant to this solicitation, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this request for proposals and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration of an award set forth in Exhibit B, Nondiscrimination Assurances, Provision 2, of the Grant Agreement.
- m. Consultant shall insert the clauses of Appendix A set forth in Exhibit B, Nondiscrimination Assurances, Provision 3, of the Grant Agreement into every agreement entered into between Consultant and all subconsultants and subcontractors subject to the Civil Rights Act of 1964 and the regulations set forth in the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as amended from time to time.
- n. Consultant shall insert the clauses of Appendix C, Provisions of Assurance 7(a) and Appendix D, Provisions of Assurance 7(b) set forth in Exhibit B, of the Grant Agreement into every agreement entered into between Consultant and all subconsultants and subcontractors subject to the Civil Rights Act of 1964 and the regulations set forth in the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as amended from time to time.
- o. Build America Buy America Act (BABA) requirements set forth in Clause 12 of the Program Supplement, including but not limited to the Buy America provisions set forth in 23 CFR 635.410 for steel, iron and manufactured goods produced in the United States, shall apply to the Project.
- p. Compliance with the requirements set forth in Clause 16 of the Program Supplement pertaining to Project work to be conducted within twenty-five feet of the centerline of the railroad track.
- q. Compliance with the requirements set forth in Clause 17 of the Program Supplement pertaining to the installation of warning devices, median signs, pavement markings, structures, or other improvements requiring stakeholder approvals.
- r. Records requirements set forth in Clause 23 of the Program Supplement.
- s. Prevailing Wages and Labor Code Compliance requirements set forth in Clause 24 of the Program Supplement.
- t. Administrative requirements, cost principles and audit requirements set forth in Clause 26 of the Program Supplement including, but not limited to, requiring the Consultant and its subconsultants, sub-recipients, contractors and subcontractors to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles segregating project costs, etc.

agreements exceeding \$100,000 and require all such sub-recipients to certify and disclose accordingly.

1. Requirement for Consultant to ensure that any agreement entered into between Consultant and all subconsultants and subcontractors pursuant to this solicitation, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this request for proposals and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration of an award set forth in Exhibit B, Nondiscrimination Assurances, Provision 2, of the Grant Agreement.
- m. Consultant shall insert the clauses of Appendix A set forth in Exhibit B, Nondiscrimination Assurances, Provision 3, of the Grant Agreement into every agreement entered into between Consultant and all subconsultants and subcontractors subject to the Civil Rights Act of 1964 and the regulations set forth in the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as amended from time to time.
- n. Consultant shall insert the clauses of Appendix C, Provisions of Assurance 7(a) and Appendix D, Provisions of Assurance 7(b) set forth in Exhibit B, of the Grant Agreement into every agreement entered into between Consultant and all subconsultants and subcontractors subject to the Civil Rights Act of 1964 and the regulations set forth in the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as amended from time to time.
- o. Build America Buy America Act (BABA) requirements set forth in Clause 12 of the Program Supplement, including but not limited to the Buy America provisions set forth in 23 CFR 635.410 for steel, iron and manufactured goods produced in the United States, shall apply to the Project.
- p. Compliance with the requirements set forth in Clause 16 of the Program Supplement pertaining to Project work to be conducted within twenty-five feet of the centerline of the railroad track.
- q. Compliance with the requirements set forth in Clause 17 of the Program Supplement pertaining to the installation of warning devices, median signs, pavement markings, structures, or other improvements requiring stakeholder approvals.
- r. Records requirements set forth in Clause 23 of the Program Supplement.
- s. Prevailing Wages and Labor Code Compliance requirements set forth in Clause 24 of the Program Supplement.
- t. Administrative requirements, cost principles and audit requirements set forth in Clause 26 of the Program Supplement including, but not limited to, requiring the Consultant and its subconsultants, sub-recipients, contractors and subcontractors to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles segregating project costs, etc.

- u. Audit requirements set forth in Clause 34 of the Program Supplement.
- v. Compliance with the Nondiscrimination and Fair Employment and Housing Act requirements set forth in Clause 39 of the Program Supplement. Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Program Supplement.
- w. Antitrust Claims requirements set forth in Clause 43 of the Program Supplement.
- x. The requirements set forth in 2 CFR Part 180 and 2 CFR Part 3000 are incorporated herein by reference. Consultant is required to verify that none of the Consultant's principals (defined at 2 CFR § 189.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935). Consultant and its subconsultants must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C and must include a requirement to comply with these regulations in any subcontract or lower tier covered transaction it enters into. Consultant shall sign and return with their proposal the Debarment and Suspension Certification form included in Section V. Proposal Content and Forms.
- y. System For Award Management (SAM) and Universal Identifier Requirements. Consultant and its subconsultants shall obtain a unique entity identifier and be registered in SAM (SAM.gov/content/entity-registration) prior to submitting a proposal. Consultant shall sign and return with their proposal the System for Award Management (SAM) Registration and Universal Identifier Numbering System form included in Section V. Proposal Content and Forms.
- z. Prohibition on Contracting for Covered Telecommunications Equipment or Services. Contractor and its subcontractors shall comply with all applicable requirements of 2 CFR 200.216 prohibition on certain telecommunications and video surveillance services or equipment from certain entities for national security reasons. Unless an exception applies, Contractor and its subcontractors may not use federal assistance grant, cooperative agreement, loan or loan guarantee funds to procure any equipment, system or service or enter into, extend or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Pursuant to Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).