

ENGINEERING SERVICES AGREEMENT

This Engineering Services Agreement (“Agreement” or “Contract”) is dated _____ (“Effective Date”) and is between Sanitation District No. 2 of Los Angeles County, a county sanitation district organized and existing under the County Sanitation District Act, Health and Safety Code Section 4700 *et seq.*, (the “District”) and Carollo Engineers, Inc. (“Engineer”). The District and the Engineer are collectively referred to in this Agreement as the “Parties.”

District requested a proposal for Professional Engineering Services on an on-call basis for various existing and future projects (the “Project”). The Parties desire to contract to engage the Engineer to complete work for the Project as more particularly described in this Agreement. The Request for Proposal for on-call Professional Engineering Services (“RFP”) and the Engineer’s proposal and response thereto for engineering services are attached to be included in this Agreement as described in Exhibit “A” to this Agreement (the “Work” or the “Scope of Work”).

The Parties therefore agree as follows:

1. Agreement

The RFP and the Proposal are incorporated into this Agreement. In the event that there is any conflict or inconsistency between the provisions of the RFP, the Proposal and/or this Agreement, the provisions of this Agreement will prevail.

2. Term

This agreement shall be in effect for three (3) years following the Effective Date and may be extended by mutual agreement for one (1) additional year if the "Not to Exceed" cost for Project Tasks has not been reached.

3. Engineer’s Services

31 Scope of Services by Engineer. The Engineer shall provide design services and perform work as described in the Scope of Work in the RFP and this Agreement. In its performance of the Work, Engineer shall comply with all applicable Federal, State and local laws, rules, regulations, codes, ordinances, and customary industry practices.

32 Engineer’s Standard of Care. The standard of care applicable to Engineer’s Work under the Agreement will be the degree of skill and diligence ordinarily employed by engineers performing the same or similar services, under the same or similar circumstances, in the State of California. The Engineer shall re-perform and correct to the satisfaction of the District any work performed by Engineer not meeting this standard (as reasonably determined by the District) at its sole cost and expense and without additional compensation from the District.

33 Engineer's Estimates and Projections. Engineer's opinions regarding the potential cost, financial analyses, economic feasibility projections, and schedules for potential future construction of the Project are projections only and do not reflect: the ultimate cost or price of labor and material; unknown or latent conditions of existing equipment or structures that may affect operation and maintenance costs; competitive bidding procedures and market conditions; time or quality of performance of third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate project cost or schedule. Engineer does not warrant that the District's actual project costs, financial aspects, economic feasibility, or schedules will not vary from Engineer's opinions, analyses, projections, or estimates, but Engineer shall provide such projections in accordance with the standard of care set forth in Section 2.2 of this Agreement.

4. District's Obligations

41 District-Provided Information and Services. Upon Engineer's request, the District shall furnish to the Engineer available studies, reports and other data pertinent to Engineer's services and obtain or authorize Engineer to obtain additional reports and data as reasonably required. The Engineer is entitled to use and rely upon all such information and services provided by the District or others in performing Engineer's services under the Agreement except as otherwise stated by the District in connection with the information and services provided. The Engineer acknowledges that the accuracy and reliability of the information provided by the District or others are not guaranteed, and the Engineer shall exercise due diligence in verifying such information prior to reliance.

42 Access. The District shall arrange for access to and make provisions for Engineer to enter upon public and private property as required for Engineer to perform services hereunder. Engineer shall comply with all applicable laws, regulations, codes, and ordinances and with the District's requirements for Engineer's employees, agents, and representatives to enter upon and on the District's premises.

5. Compensation and Payment for Engineering Services

51 Engineer's Compensation: The compensation payable by the District for the engineering services performed by the Engineer is the sum of: (a) Direct Costs, (b) Overhead Costs, (c) Indirect Costs, (d) Subconsultant Costs (if required), and (e) a Fixed Fee resulting in a "Not to Exceed" cost for Project Tasks identified in the Scope of Work. The "Not to Exceed" total amount for the entirety of the Work is \$2,500,000. Engineer shall not exceed this amount without the prior written authorization of the District. The breakdown of expenses for each Task Authorization Form (TAF) shall be as follows.

a. **Direct Costs.** Direct Costs will be the hourly rates paid by the Engineer to its employees for time directly chargeable to the Project, exclusive of the costs for fringe benefits for those employees and other payroll costs. Engineer shall ensure that its employees maintain accurate records of the time chargeable to the Project.

b. **Overhead Costs.** Overhead Costs will be all business expenses allocated by the Engineer for rendering engineering services for the Project, including the fringe

benefits for the employees who will be utilized on the Project. The Engineer's overhead cost will be charged to the District as a fixed percentage of the Direct Costs as identified in Section 4.1.

c. **Indirect Costs.** Indirect Costs will be all other identifiable costs of the Engineer directly chargeable to the Project, including, but not limited to, reproduction of reports, plans, specifications and other documents; preparation for meetings; travel costs; computer services; supplies used in the work; and communication expenses, that are reasonably necessary for the Engineer to fulfill its responsibilities for the Project.

d. **Subconsultant Costs.** Subconsultant costs will be the costs paid by the Engineer to subconsultants for providing services as reasonably required to assist the Engineer in the design and preparation of the deliverables for this Project.

e. **Fixed Fee.** The Fixed Fee shall be the profit of the Engineer and shall be a fixed percentage of the direct and overhead cost for each component of the Project.

52 Payment to Engineer. Engineer shall submit a combined monthly or quarterly invoice to the District for payment. Engineer shall break the invoice into Project Tasks that are consistent with the Scope of Work. Immediately upon the District's request, Engineer shall provide additional supporting information and documentation concerning any and all charges on an invoice.

6. Duration, Schedule and Delay

61 Duration. Engineer's performance of the Work shall commence on the date of the signing of each TAF as defined in the RFP. Engineer shall complete the Work in accordance with the agreed-upon schedule defined in each TAF.

62 Delay. The Engineer shall perform its services with due diligence and agrees to use its best efforts to complete the work involved in the Project in accordance with the TAF Project Schedule. The Engineer shall immediately advise the District of any delay in the TAF Project Schedule resulting from causes within or beyond its control. In the event of any such delay by causes within the Engineer's control, the Engineer shall promptly outline (in detail acceptable to the District) and implement appropriate actions required to overcome such delay, including, but not limited to, one or more of the following:

- Assignment of additional personnel to the Project;
- Utilization of overtime at no increase in compensation by the District; and
- Change in management structure or approach.

The foregoing is not intended to relieve the Engineer of responsibility for delay for which it would be responsible under this Agreement.

In the event of delay by causes beyond its control, the Engineer shall promptly provide the District with written notice of the delay and take all reasonable and necessary action to mitigate the effect of such delay. If the delay is beyond Engineer's control and without its act, omission, fault or negligence, the time for the performance of its services may be equitably adjusted by

written amendment subject to the District's approval of the extent of such delay. If the District determines that the Engineer has suffered additional costs that could not reasonably have been avoided, the District will compensate the Engineer for those additional costs.

Neither of the Parties will be responsible for delays in the performance of their obligations hereunder caused by strikes, action of the elements, acts and/or decisions of any governmental agency or by third parties, other than either Parties, consultants or subconsultants, which could not reasonably have been foreseen or civil disturbances, or any other cause beyond its reasonable control. Engineer will not be responsible for any delay by the District in supplying information and reviewing submittals by the Engineer.

7. Changes and Extra Work

The District may make changes within the general scope of this Agreement and may request the Engineer to perform additional services not covered by the Scope of Work in a TAF. If the Engineer believes that any proposed change or direction given by the District causes an increase or decrease in the cost and/or the time required for the performance of this Agreement, the Engineer shall so notify the District no later than five days after the date of receiving notification of a proposed change or the changed direction. The Engineer shall perform such services and will be paid for such services pursuant to a negotiated and mutually agreed change signed by the Parties to this Agreement. If the Engineer determines that any work beyond the Scope of Work is necessary for completion of the Project, the Engineer shall notify the District and receive written approval from the District prior to starting that work. If the Parties do not agree whether the Engineer is entitled to additional compensation or the extent of such compensation for work the Engineer determines is extra or changed work, the Engineer shall proceed with the work and the issue of the compensation shall be reserved for later determination as provided in Section 18 of this Agreement.

8. Termination

Upon 30 days written notice, either party may cancel this Agreement. However, neither party shall terminate with cause unless the terminating party provides written notice of breach and the breaching party fails to cure within 10 days of receipt of such notice.

9. Indemnity

The Engineer shall save, defend, hold harmless and indemnify the District, all other Los Angeles County Sanitation Districts and their respective directors, officers, employees, agents, and representatives from any and all liability, claim, damage, demand, injury, cause of action, lawsuit, loss, and costs (including, without limitation, attorney's fees and costs) of whatsoever kind and nature for injury to or death of any person and for loss or damage to any property occurring in connection with or in any way related to the performance of Engineer under the terms of this Agreement, including, without limitation, the negligence, acts, or omissions of Engineer or its directors, officers, shareholders, members, managers, employees, agents, representatives, contractors, subcontractors, or materialmen. All indemnities in favor of the District shall survive the termination or expiration of this Agreement.

10. Prevailing Wages

Pursuant to applicable provisions of the Labor Code of the State of California, not less than the general prevailing rate of per diem wages and not less than the general prevailing rate of per diem wages for legal holiday and overtime work, for each craft or type of workman needed to execute the field work contemplated under this agreement, as ascertained by the Director of the Department of Industrial Relations, shall be paid to all workmen performing field work on said project by the Engineer or by any subconsultant doing or contracting to do any part of said project. Hard copies of certified payroll records for each invoice period shall be submitted to the attention of the District project manager.

9.1 Wage Rates, Travel, and Subsistence.

a Wage Rates. Pursuant to the provisions of Article 2 Chapter 1, Part 7, Division 2, of the Labor Code (§ 1770 *et. seq.*), the District has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this work of improvement is to be performed for each craft, classification, or type of worker needed to provide the Work contemplated under this Agreement from the Director of the Department of Industrial Relations ("DIR"). These rates are on file with the District, and copies will be made available to any interested party on request. Engineer shall post a copy of such wage rates at the Site.

For any worker employed to perform Work, where such Work is not covered by any classification listed in the published general prevailing wage rates determinations or per diem wages determined by the DIR, said worker shall be paid not less than the minimum rate of wages specified in the classification which most nearly corresponds to the employment of such person in such classification.

b. Holiday and Overtime Pay. Holiday and overtime work, when permitted by law, shall be paid for at a rate set forth in the prevailing wage determinations issued by the DIR or at least one and one-half (1½) times the specified basic rate of per diem wages, plus employer payments, unless otherwise specified in this Agreement, or authorized by law

c. Wage Rates Not Affected By Other Contracts. Engineer shall pay and shall cause to be paid to each Employee to whom prevailing wage rates apply not less than the general prevailing rate of per diem wages determined by the DIR, regardless of any contractual relationship which may be alleged to exist between Engineer and Employee.

d. Travel and Subsistence. Engineer shall pay and shall cause to be paid to each Employee performing Work travel and subsistence payments, as such travel and subsistence payments are defined by the DIR and in accordance with Labor Code § 1773 *et seq.*, including but not limited to Labor Code § 1773.1.

e. Change in Prevailing Wage During Bid or Construction. If the DIR issues a change in any prevailing rate of per diem wages in the locality in which this public work is to be performed, Engineer must comply with current prevailing wages at all times pursuant to determinations by the DIR and Labor Code § 1773 *et seq.* Prevailing wage determination rates are issued twice a year, in February and August and, as of the date of this contract, the effective date of a determination is 10 days after the issue date of the determination. So, for example, if the prevailing wage determination is issued February 22, the effective dates for implementing said new rate is March 3rd in leap years, and Marth 4th in non-leap years.

f Minimum Wage Rates. Any worker employed to perform Work, which Work is not covered by any craft or classification listed in the general prevailing rate of per diem wages determined by the DIR, shall be paid not less than the minimum rate of wages specified therein for the craft or classification which most nearly corresponds to the Work to be performed by them, and such minimum wage rate shall be retroactive to time of initial employment of such person in such craft or classification.

g Per Diem Wages. Engineer shall pay and shall cause to be paid to each Employee performing Work per diem wages including, but not limited to, employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Labor Code § 1773.1.

h Posting of Wage Rates. Prior to commencing any Work, Engineer shall post the required notice/poster required under the California Code of Regulations and Labor Code section 1771.4 in both English and Spanish at a conspicuous, weatherproof area at the Project site. The required notice/poster is available on the Labor Commissioner's website.

i Forfeiture and Payments. Pursuant to Labor Code § 1775, Engineer shall forfeit to the District not more than Two Hundred Dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages, determined by the DIR, for such craft or classification in which such worker is employed for any Work performed. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on consideration of Engineer's mistake, inadvertence, or neglect in failing to pay the correct prevailing rate of per diem wage, the previous record of Engineer in meeting his or her prevailing rate of per diem wage obligations, or Engineer's willful failure to pay the correct prevailing rate of per diem wages. A mistake, inadvertence, or neglect in failing to pay the correct prevailing rate of per diem wage is not excusable if Engineer had knowledge of it or the obligations under this part. The difference between such prevailing rate of per diem wage and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing rate of per diem wage shall be paid to each worker by Engineer.

j Monitoring and Enforcement by Labor Commissioner. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE). Engineer shall be required to furnish, at least monthly, certified payroll records directly to the Labor Commissioner in accordance with Labor Code section 1771.4. All payroll records shall be furnished in a format required by the Labor Commissioner. Engineer must sign up for, and utilize, the Labor Commissioner's electronic certified payroll records submission system. The District will have direct and immediate access to all CPRs for Work performed under this Agreement that are submitted through the Labor Commissioner's system. The District can use this information for any appropriate purpose, including monitoring compliance, identifying suspected violations, and responding to Public Records Act requests.

The Labor Commissioner and DLSE may conduct various compliance monitoring and enforcement activities including, but not limited to, confirming the accuracy of payroll records, conducting worker interviews, conducting audits, requiring submission of itemized statements prepared in accordance with Labor Code section 226, and conducting random in-person inspections of the Facilities site ("On-Site Visits"). On-Site Visits may include inspections of records, inspections of the work site and observation of work activities, interviews of workers and

others involved with the Facilities, and any other activities deemed necessary by the Labor Commissioner/DLSE to ensure compliance with prevailing wage requirements. The Labor Commissioner/DLSE shall have free access to any construction site or other place of labor and may obtain any information or statistics pertaining to the lawful duties of the Labor Commissioner/DLSE.

Any lawful activities conducted or any requests made by the Labor Commissioner/DLSE shall not be the basis for any delays, claims, costs, damages or liability of any kind against the District by Engineer. Engineer and all Employees shall cooperate and comply with any lawful requests by the Labor Commissioner/ DLSE. The failure of the Labor Commissioner, DLSE, or any other entity related to the Department of Industrial Relations to comply with any requirement imposed by the California Code of Regulations, Title 8, Chapter 8 shall not of itself constitute a defense to the failure to pay prevailing wages or to comply with any other obligation imposed by Division 2, Part 7, Chapter 1 of the Labor Code.

9.2 Record of Wages Paid: Certified Payroll Submission and Inspection

a. Payroll Records.

i. Pursuant to §1776 of the Labor Code, Engineer shall keep an accurate payroll record showing the name, address, social security number, work classification and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by him or her in connection with the Work.

ii. All payroll records as specified in Labor Code §1776 of Engineer shall be certified and furnished directly to the Labor Commissioner in accordance with Labor Code §1771.4(a) (3) on a monthly basis (or more frequently if required by the District or the Labor Commissioner) and in a format prescribed by the Labor Commissioner. Payroll records as specified in Labor Code §1776 shall be certified and submitted to the District in hard copy (not electronic) with each application for payment or invoice. All payroll records shall be available for inspection at all reasonable hours at the principal office of Engineer on the following basis:

(a) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(b) A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of the District, the Division of Labor Standards Enforcement or the Division of Apprenticeship Standards of the Department of Industrial Relations.

(c) A certified copy of all payroll records shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to Paragraph (2) above, the requesting party shall, prior to being provided the records, reimburse the costs, according to law for the preparation by Engineer, and the entity through which the request was made. The public shall not be given access to such records at the principal office of Engineer.

iii. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the Division of Labor Standards Enforcement.

iv. Engineer shall file a certified copy of all payroll records with the entity that requested such records within 10 calendar days after receipt of a written request.

v. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or redacted to prevent disclosure of an individual's name, address and social security number. The name and address of the Engineer awarded the Work shall not be marked or redacted. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) shall be marked or redacted only to prevent disclosure of an individual's name and social security number. Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided non-redacted copies of certified payroll records.

vi. The Engineer shall inform the District of the location of all payroll records, including the street address, city and county, and shall provide notice of a change of location and address within five (5) days of same.

vii. Engineer shall have 10 calendar days in which to comply subsequent to receipt of a written notice requesting payroll records. In the event that Engineer fails to comply within the 10- day period, the Vencor shall, as a penalty to the District, forfeit One Hundred Dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from payments then due to Engineer.

viii. Responsibility for compliance with this Article shall rest upon Engineer.

b. Withholding of Contract Payments & Penalties.

The District may withhold or delay contract payments to Engineer if:

i. The required prevailing rate of per diem wages determined by the DIR is not paid to all Employees performing Work;

ii. Engineer fails to submit all required certified payroll records with each application for payment or invoice, but not less than once per month;

iii. Engineer submits incomplete or inadequate payroll records;

- iv. Engineer fails to comply with the Labor Code requirements concerning apprentices; or
- v. Engineer fails to comply with any applicable state laws governing workers on public works projects.

9.3 Apprentices

Apprentice Wages and Definitions. All apprentices employed by Engineer to perform Work shall be paid the standard wage paid to apprentices under the regulations of the craft or trade for which he or she is employed, as determined by the DIR, and shall be employed only at the work of the craft or trade to which he or she is registered. Only apprentices, as defined in § 3077 of the Labor Code, who are in training under apprenticeship standards that have been approved by the chief of the Division of Apprenticeship Standards and who are parties to written apprenticeship agreements under Chapter 4 (commencing with § 3070) of Division 3, are eligible to be employed under this Agreement. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training, or in accordance with the rules and regulations of the California apprenticeship Council.

a Apprentice Labor Pool. When Engineer employs workers in any apprenticeable craft or trade, Engineer shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the Site of the Work, for a certificate approving the Engineer under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving Engineer, shall arrange for the dispatch of apprentices to Engineer in order to comply with this section. Engineer shall submit the contract award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the Agreement, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the crafts or trade in the area of the Site of the work, to ensure equal employment and affirmative action and apprenticeship for women and minorities. Engineer shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen, who shall be employed in the craft or trade at the Facilities, may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one (1) apprentice for each five (5) journeymen.

b. Journeyman/Apprentice Ratio; Computation of Hours. Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the job Site and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. Engineer shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are

employed at the job Site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one (1) apprentice for each five (5) journeymen in a craft or trade classification.

c Journeyman/Apprentice Ratio. Engineer, if covered by this section upon the issuance of the approval certificate, or if previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by Engineer that it employs apprentices in the craft or trade in the state on all of its contracts on an annual average of not less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman, or in the land surveyor classification, one (1) apprentice for each five (5) journeymen, the Division of Apprenticeship Standards may grant a certificate exempting Engineer from the 1 -to-5 hourly ratio as set forth in this section. This section shall not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than Thirty Thousand Dollars (\$30,000) or twenty (20) working days. Any work performed by a journeyman in excess of eight (8) hours per day or forty (40) hours per week, shall not be used to calculate the hourly ratio required by this section.

d Apprenticeable Craft or Trade. "Apprenticeable craft or trade" as used in this Article means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting Engineer from the 1 -to-5 ratio set forth in this Article when it finds that any one of the following conditions is met:

(a) Unemployment for the previous three-month period in the area exceeds an average of fifteen percent (15%).

(b) The number of apprentices in training in such area exceeds a ratio of 1-to-5.

(c) There is a showing that the apprenticeable craft or trade is replacing at least one- thirtieth (1/30) of its journeymen annually through the apprenticeship training, either on a statewide basis or on a local basis.

(d) Assignment of an apprentice to any work performed under this Agreement would create a condition which would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

e Ratio Exemption. When exemptions are granted to an organization which represents Contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member Contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

f Apprentice Fund. If Engineer employs journeymen or apprentices in any apprenticeable craft or trade and is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the site of the Project,

to which fund or funds other contractors in the area of the site of the Project are contributing, Engineer shall contribute to the fund or funds in each craft or trade in which he or she employs journeymen or apprentices on the Project in the same amount or upon the same basis and in the same manner as the other contractors do, but if the trust fund administrators are unable to accept the funds, Engineer shall pay a like amount to the California Apprenticeship Council. Engineer may add the amount of the contributions in computing its bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in the Labor Code § 227.

g Engineer Compliance. The responsibility of compliance with paragraph 13.10 and § 1777.5 of the Labor Code for all apprenticeable occupations is with Engineer.

h Decisions Of Joint Apprenticeship Committee. All decisions of the joint apprenticeship committee under this paragraph 13.10 and Labor Code § 1111.5 are subject to Labor Code § 3081.

i No Bias. It shall be unlawful for an employer or a labor union to refuse to accept otherwise qualified employees as registered apprentices on any public works on the grounds of race, religious creed, color, national origin, ancestry, sex, or age, except as provided in the Labor Code § 3077.

j Violation of Labor Code. Pursuant to Labor Code § 1777.7, in the event Engineer willfully fails to comply with the provisions of this paragraph 13.10 and Labor Code § 1777.5:

i. The DIR of Industrial Relations shall deny to Engineer the right to bid on, or to receive, any public works contract for a period of up to one year for the first violation and for a period of up to three years for the second and subsequent violations. Each period of debarment shall run from the date the determination of noncompliance by the Administrator of Apprenticeship becomes an order of the California Apprenticeship Council.

- k.** If an Engineer violates Section 1777.5 it shall forfeit as a civil penalty the sum of two hundred dollars (\$200) for each calendar day of noncompliance. Notwithstanding Section 1727, upon receipt of a determination that a civil penalty has been imposed, District shall withhold the amount of the civil penalty from the contract progress payments then due or to become due.
- l.** In lieu of the penalty provided for in subdivision (a) or (b), the DIR may for a first time violation and with the concurrence of the joint apprenticeship committee, order Engineer to provide apprentice employment equivalent to the work hours that would have been provided for apprentices during the period of noncompliance.
- m.** Any funds withheld by District pursuant to this section shall be deposited in the General Fund if the awarding body is a state entity, or in the equivalent fund of an awarding body if the awarding body is an entity other than the state.
- n.** The interpretation and enforcement of Section 1777.5 and this section shall be in accordance with the rules and procedures of the California Apprenticeship Council.

9.4 DIR Registration

a Registration by Engineer and All Subconsultants of Any Tier.

Strict compliance with all DIR registration requirements in accordance with Labor Code sections 1725.5 and 1771.1 is a material obligation of Engineer under the Agreement. The foregoing includes, without limitation, compliance with DIR registration requirements at all times during performance of the work by Engineer. The failure of Engineer to be properly registered with DIR at all times during performance of the work is a material breach of the Contract and subject to termination for cause. An affirmative and ongoing obligation of Engineer under the Agreement is the verification that all Subconsultants of any tier are at all times during performance of the work in full and strict compliance with the DIR registration requirements. Engineer shall not permit or allow any subconsultant of any tier to perform any work without Engineer's verification that all subconsultants are in full and strict compliance with the DIR registration requirements. Any subconsultants of any tier not properly registered with DIR shall be substituted in accordance with Labor Code section 1771.1. Engineer or its subconsultants of any tier shall not be entitled to any additional costs or time arising from or in any way related to compliance with the DIR registration requirements.

11. Insurance

The Engineer shall secure and maintain, for the duration of the Project, such insurance as will protect it and the District in such a manner and at such amounts as set forth in Item 31 of the General Conditions of the RFP.

Prior to commencing any work, the Engineer shall furnish to the District certificates of insurance and endorsements verifying the insurance coverage as required by this Agreement.

12. Cooperation with Others

Engineer shall not interfere with the operations of the District's facilities, nor with Districts' forces engaged in site maintenance, operation or repairs, nor with any other Consultants or Contractors engaged in work at the District's facilities. Engineer's employees shall follow safe driving habits and all directions of the District while on District's property.

13. Requirements for In-Use Off-Road Diesel Fueled Fleets

The Engineer and subconsultants performing field work required for the project hereby agree that all of their fleets/vehicles subject to the following regulations will adhere to the emissions standards, reporting requirements, all applicable laws, regulations, codes, and ordinances, and any other relevant provisions outlined in the California Code of Regulations Title 13, Section 2449, 2449.1, and 2449.2 governing diesel fleet compliance.

14. Non Disclosure of Information

Engineer shall not divulge to any third party, without the prior written consent of the District, any information or documentation prepared, developed, or obtained by or through the District, in connection with the performance of this Agreement unless: a) the information is known to Engineer prior to obtaining it from the District; b) the information is, at the time of disclosure by the Engineer, then in the public domain; or c) the information is obtained by the Engineer from a third party that did not receive it, directly or indirectly, from the District.

15. Ownership of Documents

All reports as well as original reports, plans, studies, memoranda, computation sheets, survey data, computer hardware or software developed or purchased specifically for the Project, and other documents assembled or prepared by Engineer, or furnished to Engineer in connection with the Project will be the property of the District. Engineer may retain copies of such documents, but Engineer may not make such documents available to any individual or organization without the District's prior written approval, which may be withheld in District's sole and absolute discretion. The District's reuse of such documents on an extension of the Project or on any other project by the District without written verification or adaptation by the Engineer for the specific purpose intended will be at District's sole risk and without liability or legal exposure to the Engineer. The District shall indemnify and hold Engineer harmless from all claims, damages, losses and expenses including attorney's fees, arising out of or resulting from any such unauthorized reuse by the District. Any preliminary or working drafts, notes, or inter- agency or intra-agency memoranda which are not retained by the Engineer or the District in the ordinary course of business shall be exempt from disclosure under provisions of the California Public Records Act.

16. Access to Work and Records

Representatives of the District shall be allowed access to the Work whenever it is in preparation or in progress. Engineer shall provide proper facilities for such access and inspection. The District, or any authorized representatives of the District, shall have access, upon demand, to any books, documents, papers, and records of the Engineer that are pertinent to the Project for the purpose of making audits, examinations, excerpts, and transcriptions. The Engineer shall maintain and make available for reasonable inspection by the District accurate detailed records of its costs, disbursements and receipts with respect to items forming any part of the basis for billings to the District. Such inspections may be made during regular office hours at any time until three years after the District makes the final payment under this Agreement.

17. Personnel Assignment

Engineer agrees to utilize the key personnel as submitted to the District in its Project Plan, including its Project Manager. The Project Manager will be the primary contact for the District. Engineer shall ensure that such Project Manager has a thorough knowledge of all aspects of the Project and its status. During the term of this Agreement, no replacement of the Project Manager or any of the key personnel of Engineer's Project team or its subconsultants may be made without the written approval of the District. Nothing in this Section 15 is intended to or may be construed to prevent Engineer from employing or hiring as many employees as Engineer deems necessary for the proper and efficient performance of its services.

The District may request a change in the assignment of the key personnel. Engineer shall change key personnel to the satisfaction of the District within ten (10) days following written direction to change by the District.

18. Notices

All notices or other communications to either party by the other shall be deemed given when made in writing and delivered or mailed (not e-mailed) to such party at their respective addresses as follows:

County Sanitation Districts
of Los Angeles County
1955 Workman Mill Road
Whittier, California 90601
ATTN: Mathew Watson

Carollo Engineers, Inc.
707 Wilshire Boulevard, Suite 3920
Los Angeles, CA 90071
ATTN: Miko Aivazian

Either party may change its address or representative for such purpose by giving notice thereof to the other in the same manner.

19. Governing Law, Dispute Resolution and Litigation

This contract shall be in accordance with the laws of the state of California, without giving effect to conflict of laws principles. The parties stipulate that this contract was entered into in the county of Los Angeles, in state of California. The parties further stipulate that the county of Los Angeles, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from, and each party waives any claim of inconvenient forum.

20. Severability

If any provisions, or portion of any provision, of this contract are held invalid, illegal, or unenforceable, they shall be severed from the contract and the remaining provisions shall be valid and enforceable.

21. Confidentiality

Engineer and its Project team shall not release Project information or documentation to anyone outside the District without the express written consent of the District..

22. Third Parties

The services to be performed by Engineer are intended solely for the benefit of the District. No person or entity not a signatory to the Agreement may rely on Engineer's performance of its Work under this Agreement, and no third party will obtain any right to assert a claim against the Engineer by assignment of indemnity rights or otherwise accrue to that party as a result of this Agreement or Engineer's performance of the Work.

23. Outreach Program Provisions

23.1 General. The District encourages participation in its consulting contracting by all members of the community including Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Disadvantaged Business Enterprises (DBE), Disabled Veterans Business Enterprises (DVBE) and Small Business Enterprises (SBE). The District has established an aspirational goal of 20% overall participation by such firms. Although such participation is encouraged, award of a contract is not based on race, gender, disabled, disadvantaged or small business status.

In order to monitor the performance of the Outreach Program, the Consultant shall submit Appendix A, Firm/Organization Information for itself, each of its subconsultants listed in the proposal and supplier supplying goods and/or services in excess of one-half of 1% of the contract amount, if applicable. One (1) form shall be submitted for each firm in the above categories.

232 Definitions. The following definitions apply:

a. Minority of Women Business Enterprise (MBE or WBE)

i. Minority or women business enterprise” means a business enterprise that meets the following criteria:

a. A business that is at least 51% owned by one (1) or more minority persons or women or, in the case of any business whose stock is publicly held, at least 51% of the stock is owned by one (1) or more minority persons or women.

b. A business whose management and daily business operations are controlled by one (1) or more minority persons or women.

c. “Minority person”, for purposes of this section, means Black Americans, Hispanic Americans, Native Americans, (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian-Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, The United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan).

b. Disadvantaged Business Enterprise (DBE)

“Disadvantaged business enterprise” means a small business concern that is (a) at least 51% owned by one (1) or more socially and economically disadvantaged individuals, or in the case of any publicly-owned business, at least 51% of the stock of which is owned by one (1) or more socially and economically disadvantaged individuals; and (b) the management and daily business operations of which are controlled by one (1) or more socially and economically disadvantaged individuals who own it.

Socially and economically disadvantaged individuals are those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act (Public Law 85-536).

c. Disabled Veterans Business Enterprises (DVBE)

“Disabled veteran” means a United States military, naval, or air service veteran, with a service-related disability of at least 10%.

A disabled veteran business enterprise must meet the following requirements:

a. It is a sole proprietorship or partnership at least 51% owned by one (1) or more disabled veterans or, in the case of a publicly owned business, with at least 51%

of its stock owned by one (1) or more disabled veterans; a subsidiary which is wholly owned by a corporation in which at least 51% of the parent company's voting stock is owned by one (1) or more disabled veterans; or a joint venture in which at least 51% of the joint venture's management, control and earnings are held by one (1) or more disabled veterans.

b. One (1) or more disabled veterans control the management and daily control of the daily business operations. The disabled veteran(s) exercising management and control need not be the same disabled veteran(s) who own the firm.

c. It is a sole proprietorship, partnership or corporation with its home office located in the United States and is not a branch or subsidiary of a foreign corporation, firm or business.

d. Small Business Enterprise (SBE)

“Small business enterprise” means an existing small business as defined by Small Business Administration or the California Office of Small and Minority Business.

e. Certification

MBE, WBE, DBE, DVBE and SBE businesses shall be certified by one (1) or more of the agencies identified in Attachment A. Certifications from other agencies may be accepted on a case-by-case basis. Evidence of current certification shall be on file with the District or shall be submitted with Attachment A by attaching a copy of the current certification.

24. Entire Agreement

This Contract, the RFP and Engineer's Proposal constitutes the entire agreement between the parties hereto with respect to the matters covered thereby. All prior negotiations, representations and agreements with respect thereto not incorporated in the Contract are hereby canceled. This Contract has been negotiated at arm's length and each Party has been represented by legal counsel. Accordingly, any rule of law (including without limitation California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party drafting it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effectuate the intent of the Parties and the purpose of this Contract.

25. Action by Chief Engineer

Except as otherwise provided in this Agreement, the Chief Engineer and General Manager of the District (“Chief Engineer”) may take all actions on behalf of the District in connection with any approvals or actions required of or by the District under this Agreement, and Engineer may rely on any such actions by the Chief Engineer as having been approved or required by the District under all applicable laws.

26. Warranty of Authority

Each individual signing the Agreement warrants and represents that he or she has the full authority to execute the Agreement on behalf of the party on whose behalf he or she so signs, that he or she is acting within the scope of such authority, and that this Agreement shall be binding upon and enforceable against the party on whose behalf he or she so signs by virtue of such signature.

Carollo Engineers, Inc.

Sr. Vice President

Vice President

**SANITATION DISTRICT NO. 2
OF LOS ANGELES COUNTY**

By: _____
Chairperson

Attest:

Secretary

Approved as to Form:

Lewis Brisbois Bisgaard & Smith LLP

By: _____
District Counsel

APPENDIX A
ON-CALL ENGINEERING SERVICES
OUTREACH PROGRAM

Firm/Organization Information (for Engineer and Subconsultants)

INSTRUCTIONS: The Engineer shall return this form for itself, each of its subconsultants listed in the proposal and each supplier supplying goods and/or services in excess of one-half of 1 percent of the contract amount. The forms shall be included in the Engineer proposal for evaluation.

NAME OF FIRM: _____

Name of Person Completing the Form: _____

SIGNATURE: _____

Role on this project, Check One: Engineer Subconsultant Supplier

TYPE OF BUSINESS STRUCTURE: _____
(Corporation, Partnership, Sole Proprietorship, etc.)

DOLLAR VALUE OF WORK ON THIS PROJECT \$ _____

How did you learn of this project? Check One:

Plan Room Assistance Organization Internet Consultant/Subconsultant

Newspaper _____ Other _____
(Name of Newspaper)

Certification Information

Is the firm currently certified as a minority, women-owned, disadvantaged, disabled veterans, or small business enterprise by one (1) or more of the certifying agencies listed below? YES NO

If YES, complete the following and attach a copy of your notice of certification.

Agency	M	W	D	DV	S	Expiration Date
California Department of Transportation (Caltrans)						
City of Los Angeles, Department of Public Works						
California Public Utilities Commission						
County of Los Angeles, Department of Consumer and Business Affairs						
California State Department of General Services, Office of Small Business and DVBE Services						
Los Angeles County Metropolitan Transportation Authority (MTA)						

LEGEND: M= Minority; W=Women; D=Disadvantaged; DV=Disabled Veterans; S=Small