



## FLAGGING SERVICES AGREEMENT

This Agreement executed on \_\_\_\_\_, 20\_\_\_\_ is between \_\_\_\_\_ a corporation having a place of business at \_\_\_\_\_ (hereinafter called: the "Contractor") and **Jacobs Project Management Co**, a Delaware Corporation having a place of business at 3508 Seagate Way, Suite 150, Oceanside, 92056 (hereinafter called: "Jacobs").

**WHEREAS** the Contractor wishes to retain the services of the Jacobs, as described in Attachment 3 - Scope of Services and in accordance with each executed Attachment 1 - Flagging and RWIC Services Request Form issued in accordance with this Agreement.

**WHEREAS** Jacobs desires to provide such services to the Contractor.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties mutually covenant and agree as follows:

### **1 DEFINITIONS**

When the following terms are used in this Agreement, they shall be construed to have the following meaning:

Agreement: all terms and conditions and exhibit duly signed by the Contractor and Jacobs, all of them which form part of one instrument.

Consent or Approval: procedure or method given approval by the Contractor.

Compensation: the compensation set forth in Section 9 of this Agreement.

Days: unless otherwise designated, calendar days.

Effective Date: the date set forth in Section 4 of this Agreement.

Force Majeure: acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Jacobs's control, or for any of the foregoing that affect subcontractors or Jacobs.

Goods: any material to be procured by Jacobs which is necessary to perform the Services.

Master Contract: contract between NCTD and Jacobs for the Flagging and RWP Training Services on NCTD's Coaster and Sprinter lines.

NCTD: the North County Transit District

Notice: a written notice.

Party: The Contractor or Jacobs, together the Parties

Exhibit: the flagging request form confirming the work for a specific project.

Services: the scope of work to be rendered by Jacobs pursuant to this Agreement and in accordance with Attachment 3 - Scope of Services and Attachment 1 - Flagging and RWIC Services Request Form including, but not limited to the performance of flagging services described in this Agreement and the procurement of Goods as applicable.

Jacobs: the subcontractor itself, its employees, authorized agents, officers, or any other person working under its control and/or supplying Services to the Contractor pursuant to this Agreement.

### **2 AGREEMENT**

**2.1** Under and subject to the terms, conditions and provisions of this Agreement, Jacobs agrees to perform the Services described in Attachment 3 - Scope of Services, in accordance with each executed Attachment 1 - Flagging and RWIC Services Request Form of this Agreement.

**2.2** The Contractor agrees to pay Jacobs the sums of money mentioned in Attachment 2 of this Agreement, at the time, in the manner and subject to the terms and conditions hereinafter set forth.

### **3 SERVICES**

**3.1** The Services to be rendered under this Agreement shall comply in all respects with the requirements of this Agreement. The Services are specifically described in Attachment 3 - Scope of Services of this Agreement and shall be executed in accordance with each executed Attachment 1 - Flagging and RWIC Services Request Form.

### **4 EFFECTIVE DATE**

**4.1** This Agreement shall become effective as the execution of this Agreement or the commencement of the Service or, whichever occurs first. However, since Jacobs may have started to provide the Services before the Effective Date, the parties agree that the obligations resulting from the Services will be retroactive to the date Jacobs started the Services.

### **5 REPRESENTATIONS AND OBLIGATIONS**

**5.1** Jacobs represents and warrants to the Contractor that it is qualified to perform the Services.

**5.2** Jacobs shall comply with the requirements set forth in this Agreement.

**5.3** Jacobs represents and warrants that it will render the Services in accordance with NCTD approved work plans.

### **6 RESERVED (Jacobs Accounting)**

**7 TERM**

This Agreement is effective starting from the Effective Date through the period of the contract between NCTD and Jacobs Project Management Co if there is an NCTD-approved right of entry permit for work active.

**8 COMPENSATION**

**8.1** The hourly rate for flagging is \$141.82 and the hourly rate for Over time is \$222.91. Rates will be escalated on an annual basis at the beginning of each fiscal year beginning July 1, 2026, pursuant to the Master Contract. The escalation rate shall be 3%, as outlined in the Master Contract. Additional fees may apply for Services performed in overtime or if no lunch time is provided, as stated in greater detail in Attachment 2 of this Agreement.

**8.2** The Compensation mentioned above does not include any federal, provincial (state) or any other applicable taxes.

**8.3** Payment of the Compensation is as follows:  
Jacobs shall submit a monthly invoice to the Contractor.

(a) This invoice shall itemize the hours worked per person per day during the preceding month, in connection with the Services rendered by Jacobs.

(b) This invoice shall clearly indicate where the Services were rendered; and

(c) Any amount of tax applicable on the Services rendered by Jacobs shall be indicated separately on the invoice.

**8.4** The Contractor shall pay the invoice submitted by Jacobs no more than thirty (30) Days following its receipt by the Contractor.

**8.5** A minimum of 4 hours will be charged to the Contractor for Services performed for which the duration of the Services is less than 4 hours.

**8.6** A minimum of 8 hours will be charged to the Contractor for Services performed for which the duration of the Services is more than 4 hours but less than 8 hours.

**8.7** Contractor acknowledges that Jacobs has the right to correct and reissue an invoice, in the event an invoice previously issued contained an error.

**9 CONTRACTOR'S RESPONSIBILITIES**

The Contractor agrees to cooperate with Jacobs, so that Jacobs can assume its responsibilities effectively.

**10 TERMINATION OF AGREEMENT**

**10.1** In the event the Contractor terminates this Agreement, or any Exhibit Contractor shall pay Jacobs in accordance with Section 9 for the hours worked and expenses incurred by Jacobs together with all costs incurred by Jacobs because of such termination.

**10.2** Jacobs may at any time after the effective date terminate this Agreement if the Master Contract is terminated.

**11 CANCELLATION**

The Contractor may cancel any or all part of the Services scheduled to be performed in accordance with an NCTD approved work plan by giving a notice of no less than 72 hours to Jacobs. Any Services cancelled with less than 72 hours' notice shall be invoiced as Services provided and paid in accordance with Section 8 herein.

**12 NOTICES**

All Notices required in accordance with this Agreement, shall be submitted in writing and shall be sent by certified mail to the following recipient:

Jacobs: Jacobs Project Management Co  
3508 Seagate Way, Suite 150  
Oceanside, CA 92056  
Attention: Michael Albanese, Contract Manager  
Tel.: +1 (657) 274-6754

Contractor: \_\_\_\_\_  
Address: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Tel: \_\_\_\_\_

**13 GOVERNING LAW**

This Agreement shall be construed and interpreted according to the laws of the State of California.

**14 INDEMNIFICATION AND LIMITATION OF LIABILITY**

**14.1** Each Party shall indemnify, defend, and hold harmless the other Party and its officers, and employees against all suits, claims, or liability due to injuries to persons including death or damage to property to the proportionate extent arising out of its negligence, gross negligence, and willful misconduct in the performance of the Services covered by this Agreement.

**14.2** In no event shall the liability incurred by Jacobs to the Contractor in connection with any and all contractual remedies provided to the Contractor hereunder exceeds the total value of this Agreement. Furthermore, under no circumstance shall Jacobs be liable for remote, indirect, special, punitive, exemplary, incidental, speculative, or consequential damages (including without limitation loss of revenue and lost profit, lost opportunity, economic loss, overhead expenses, business interruption, loss of use, loss of productivity, downtime, or damage to reputation or goodwill) irrespective of the nature of the claim asserted.

**14.3** Jacobs shall not assume any responsibility or liability for performance of the construction services, or for the safety of persons and property during construction, or for compliance with federal, state, and local statutes, rules, regulations and codes applicable to the conduct of the construction services. Jacobs shall have no influence over the construction means, methods, techniques, sequences, or procedures. Construction safety shall remain the sole responsibility of the construction contractor(s).

**15 STANDARD OF CARE**

Jacobs warrants that it shall be responsible to the level of competency presently maintained by other practicing professionals in the same type of work in location of project, for the professional and technical soundness, accuracy, and adequacy of all design, drawings, specifications, and work and materials furnished under this Agreement.

**16 CONTRACTOR INSURANCE**

**16.1** Commercial General Liability – \$2M per occurrence \$4M aggregate. The following entities shall be endorsed as additional insureds on Commercial General Liability and Auto Liability policies: Jacobs Project Management Co., North County Transit District, Amtrak, Metrolink, BNSF, and their respective directors, officers, employees, contractors, and agents.

Coverages below shall include a waiver of subrogation or recovery in favor of the additional insureds, and Contractor's coverage shall be primary to insurance that may be maintained by the additional insureds.

**16.2** Commercial Auto Liability - \$2M combined single limit per accident.

**16.3** Worker's Compensation – Statutory.

**16.4** Employer's Liability – \$1M each accident, disease-employee, and disease-policy limit.

**16.5.1** Railroad Protective Liability (RPL) – \$3M per occurrence/ \$6M aggregate.

**16.5.2** Required when work is performed on the rail, in the right of way, or within 50 feet of any railroad property.

**16.5.3** CGL policy with a CG 24 17 endorsement provided in lieu of RPL if it meets the limit requirements (\$3M each occurrence/ \$6M aggregate).

**16.5.4** For Self-insurance policies – language stating there is no railroad exclusion from policy's "insured contract" definition.

**16.5.5** If the project is invasive, requires work below grade, includes heavy equipment, or involves bridges or trestles, the required limits shall be \$10M/\$20M or more. If using CGL policy with a CG 24 17 endorsement provided in lieu of RPL, the policy, and umbrella if applicable, must evidence these higher limits.

**16.6** Contractor's Pollution Liability (for projects / use with environmental risks). Pollution liability policy with minimum standard limit of one million dollars (\$1,000,000) per occurrence/aggregate.

**16.7** Certificate Holder is:

Jacobs Project Management Co  
Attn: Michael Albanese; Ralph Godinez  
3508 Seagate Way, Suite 150  
Oceanside, CA 92056

\*Please provide the actual endorsement form either specifically naming the entities, or an endorsement that says additional insureds covered "when required by written contract."

**17 MODIFICATION**

**17.1** Any modification to the Services or this Agreement shall be subject to agreement between the Parties and formalized in an Amendment executed by both Parties.

**17.2** The Contractor shall provide a schedule adjustment or additional compensation to Jacobs in the event a change in federal, state and local laws, ordinances, rules, regulations, and orders following the date of the submittal of Jacobs's quote, impacts the scope of the Services to be performed or the project schedule of this Agreement.

**18 DISPUTES**

(a) All disputes arising out of this Agreement shall be mediated by the parties within a reasonable time after the first request for mediation, prior to either party filing a suit in a court of law, provided, however, that neither party shall be obligated to mediate prior to requesting injunctive relief. (b) In the event legal action is brought by Jacobs to enforce any of the obligations hereunder or arising out of any dispute concerning this Agreement, Contractor shall pay Jacobs reasonable amounts for fees, costs and expenses as may be set by the court (c) This Agreement is governed by the laws of the state in which the Services are performed, without regard to its choice of law provisions.

**19 MISCELLANEOUS**

**19.1 Interpretation.** Titles, subtitles, headings, subheadings and running headers, printed herein are merely for the convenience of the parties and shall not be deemed to define, limit, or describe the scope or the purpose of any part of this Agreement.

**19.2 Renunciation.** Failure by one of the parties to require the implementation of any provision of this Agreement shall not constitute a renunciation or relinquishment of any of the provisions in this Agreement, and the said provisions shall remain effective at all times.

**19.3 Validity.** Each of the provisions of this Agreement applies insofar as permitted by law and the nullity or non-application of a provision in part or in its entirety shall not modify the application of the remaining part of that or any other provision.

**19.4 Modification.** No modification or addition to the present Agreement shall be valid unless it is submitted in writing and duly signed by an authorized representative of both parties.

**19.5 Employer-employee relationship.** Notwithstanding any provision herein no employer-employee relation is created between the Contractor and Jacobs. It is not the intention of the parties to create a partnership or a joint agreement with a third party, or to contract obligations or liabilities in the name of the other party. There are no third-party beneficiaries to this Agreement.

**19.6 Compliance with Laws.** Both Parties shall observe and comply and shall remain fully informed with all applicable federal, state, and local laws, ordinances and regulations that affect its performance of the Services under this Agreement

**19.7 Successors.** This Agreement is binding upon the parties hereto and their respective successors and permitted assigns, as the case may be.

**19.8 Assignment.** This Agreement and the interest and obligations contained herein shall not be assigned or transferred by either Party without the prior written consent of the other, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, an assignment or transfer to any of Jacobs' legal entities may be undertaken upon written notice to the Contractor.

**19.9 Force Majeure.** Jacobs will not be responsible of the non-performance of the Services under this Agreement due to event of the nature of a Force Majeure. However, it is understood that in the event that Jacobs foresees any impediment to the execution of the Services, it shall advise the Contractor in writing of such impediment.

**19.10 Communication.** Neither party shall release material relating to this Agreement or its subject matter, including but without limitation news releases, photographs, films, advertisements, public announcements, and denials or confirmation of such public announcements, without the other's prior written consent.

**19.11 Precedence.** In the event of conflict between the Exhibit and the terms and conditions of this Agreement, the precedence of documents shall be: 1- The terms and conditions set forth herein; and 2- the Exhibit.

**19.12 Previous agreements.** This Agreement supersedes and replaces all previous proposal, negotiation, memorandum of understanding, correspondence and agreements executed between the parties concerning the subject matter of this Agreement.

**19.13 Counterparts.** This Agreement may be signed in counterparts, and each counterpart, once signed and delivered, is deemed to be an original; however, all the counterparts constitute one single deed.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date set forth herein.

Contractor's Full Legal Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Jacobs Project Management Co

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_