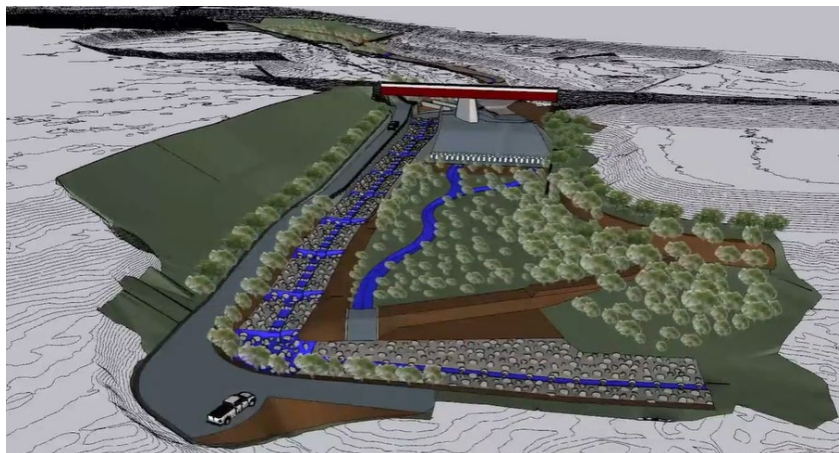


REQUEST FOR PROPOSAL CONSTRUCTION MANAGER

FOR CONSTRUCTION OF
FISH PASSAGE STRUCTURE AT METROLINK RAILWAY BARRIER ON
TRABUCO CREEK

CITY OF SAN JUAN CAPISTRANO, CALIFORNIA



RFP OPENING DATE: 3/6/2026

RFP CLOSING DATE: 4/10/2026

PROJECT LEAD: CALIFORNIA TROUT
IN COLLABORATION WITH
THE COUNTY OF ORANGE AND CITY OF SAN JUAN CAPISTRANO

AND FUNDING AGENCIES:

NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION, CALIFORNIA DEPARTMENT OF
FISH AND WILDLIFE, ORANGE COUNTY COMMUNITY
FOUNDATION, THE WHITTIER FUND

Any questions relative to this project, prior to execution of the Contract, should be directed to:

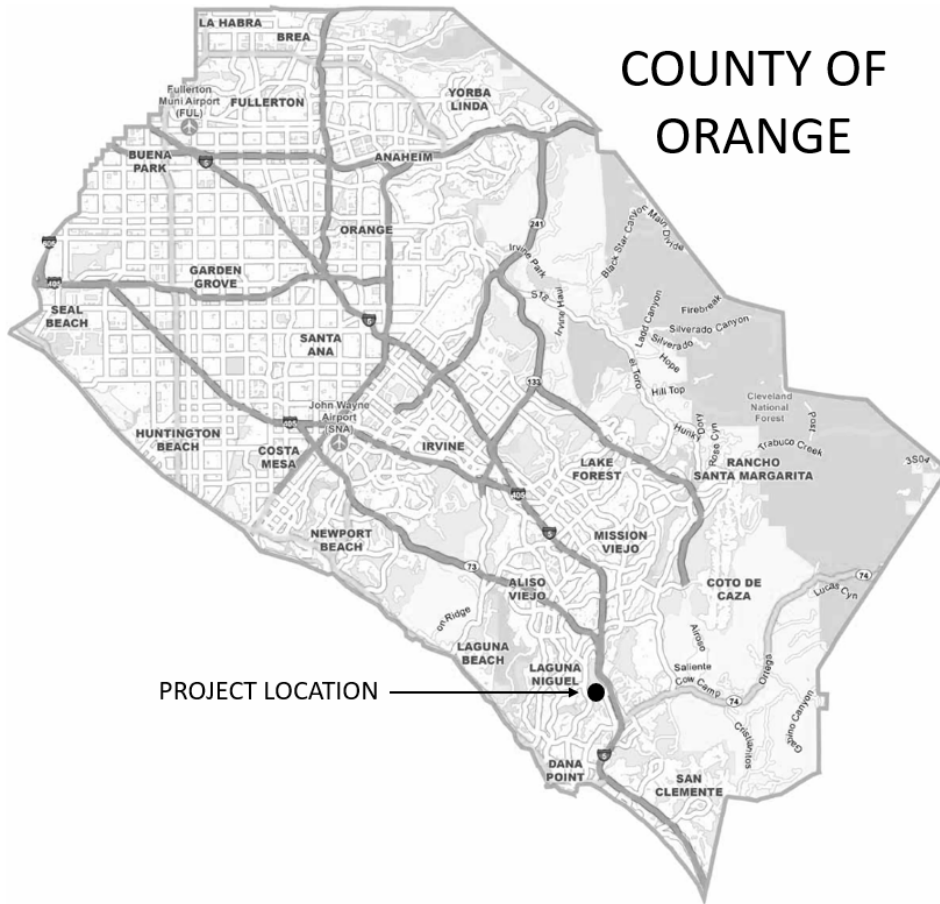
Sandra Jacobson, Ph.D.
Director, South Coast Region, California Trout
Email: sjacobson@caltrout.org

and

Nate Yancheff
Project Manager, South Coast Region, California Trout
Email: nyancheff@caltrout.org



**CONSTRUCTION OF
FISH PASSAGE STRUCTURE ON TRABUCO CREEK
CITY OF SAN JUAN CAPISTRANO, CALIFORNIA**



Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange County



GPS Coordinates: 33.52027N, -117.67146W

The Plans and Special Provisions herein have been prepared by or under the direction of Registered Professional Engineers from the following firms:

Northwest Hydraulic Consultants;
GFT, Inc.;
Mike Love & Associates, Inc;

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GENERAL INFORMATION FOR PROPOSAL PREPARATION

Metrolink Fish Passage Structure Design Plan Set is at:

Design Plan Set: <https://californiatroutinc.box.com/s/ewfttqmpi6xteu35kepx837acnrm5l5g>

Additional documents for reference:

90% Basis of Design Report:

<https://californiatroutinc.box.com/s/z0nhkm7s76dt0v7abjlo75h1b85z236>

Special Provisions:

<https://californiatroutinc.box.com/s/ydj0dzov2sdb9hc3vskgonalzrzd7>

Operations & Maintenance Manual:

<https://californiatroutinc.box.com/s/x2ipijbydghdvtl7hsvb5wu8xnn0skj>

Geotechnical Report:

<https://californiatroutinc.box.com/s/6em6vawmk0y8h4zzppgiqg4r8xkdcb3s>

3D Rendering and Project Elements

<https://californiatroutinc.box.com/s/472dix8brsouaxadws3kvwoxybm6epjc>

Draft Project Block Schedule

<https://californiatroutinc.box.com/s/y824247z41h0cgrk51hefva1p0esxf3>

RFP TIMELINE

Event	Date
Construction Manager RFP Distribution	3/06/2026
Respondent Site Visit – Q/A*	3/20/2026
Deadline for submission of proposals	4/10/2026
CM Selection	4/27/2026

Project Timeline

Event	Date
Contract Executed	5/15/2026
Work Start	6/01/2026
Work Completion	12/31/2028

*A walk-through for CONSTRUCTION MANAGER Request for Proposal respondents will be held on Friday 3/20/2026 at 10:00 a.m. – 12:00 p.m. Meeting location is the Northwest Open Space in San Juan Capistrano, at the end of the dirt road near the Cortese Dog Park. Address: 30291 Camino Capistrano, San Juan Capistrano, CA 92675. Attendance is encouraged but not mandatory.

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange County

The Standard Specifications for this project follow the 2024 Greenbook: Standard Specifications for Public Works Construction. The "Greenbook" is published every three years under the oversight of Public Works Standards, Inc. (PWSI). The members of PWSI include the American Public Works Association (APWA), Associated General Contractors of California (AGCC), Engineering Contractors Association (ECA), and Southern California Contractors Association (SCCA), published by BNi Publications, Inc.

Order of Precedence: In the event of any inconsistency among sections of the Construction Manager Request for Proposal (RFP) herein, including the General Provisions (Part VIII), the stricter of the terms shall control.

Owner for the construction phase of this project is California Trout. The Owner encourages the participation of small, minority, women, handicapped, and disabled veteran owned businesses.

Amendments and Interpretation of Contract:

Response to Questions will be posted on CalTrout website under the Metrolink Fish Passage Structure RFP section at: <https://caltrout.org/projects/santa-margarita-river-sandia-creek-fish-passage>

General Project Information:

<https://californiatroutinc.box.com/s/3fdyt63w47yt2upq9h0mrn1n59c0fui>

The Construction Manager is expected to be contracted by 6/1/2026. Proposals that do not exceed \$850,000 will score higher.

Addenda and Interpretations:

The Owner will not be responsible for any oral interpretation of the meaning of the plans, specifications, or other documents. Every request for such interpretation shall be in writing and forwarded via email to sjacobson@caltrout.org and must be received at least five (5) days prior to the date fixed for the closing of RFP. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be posted on the CalTrout website at the link above. It is the responsibility of all prospective bidders to check the CalTrout website for any updates to contract documents. All addenda so issued shall become part of the Contract Documents.

**FISH PASSAGE STRUCTURE CONSTRUCTION AT METROLINK
RAILWAY BARRIER ON TRABUCO CREEK, ORANGE COUNTY**

SUBMITTAL LOCATION: Electronically to:

**Sandra Jacobson, Ph.D.
Director South Coast Region
California Trout
sjacobson@caltrout.org**

and

**Nate Yancheff
Project Manager – South Coast Region
California Trout
nyancheff@caltrout.org**

**Office location:
California Trout
411 Camino del Rio S, Suite 106
San Diego 92108**

Proposals Due on 4/10/2026 by 5:00 p.m. PST

Authorized Proposal Submitter:

Name of Firm

Office Location out of which Work performed:

DATE: _____

PART I: CONTACT INFORMATION

The Proposal Lead is the contractor that will execute the Project contract.

A. PROPOSAL LEAD - FIRM CONTACT INFORMATION

1. Firm Name: _____
2. Address: _____
3. Phone Number of Firm: _____ Fax: _____
4. Contact Person & Title: _____
5. Contact Person Email: _____

B. CONSTRUCTION MANAGER IDENTIFICATION AND CONTACT INFORMATION

1. Construction Manager Name:
2. Address, contact information:
3. Office out of which CM is operating:

- END OF PART I -

PART II. CONSTRUCTION MANAGER QUALIFICATIONS

CONTRACTOR MINIMUM QUALIFICATIONS

- Construction Manager has 10+ yrs experience in construction of infrastructure projects of >\$10 million total project cost.

- Construction Manager has acted as Project Manager, Construction Manager, or Coordinator for a Construction Management Team in greater than 10 projects.

- Construction manager has performed Construction Management or Project Management in civil and structure work on projects in the past ten years in the state of California.

- Bachelor's Degree in Engineering, Structural Design, or Construction Management, or equivalent in experience as a CM for greater than 10 years.

- Demonstrated experience in Cal OSHA practices and procedures; proficient in Greenbook Specs.

- Experience as Project Manager or Construction Manager with City of San Juan Capistrano or Orange County is preferred, including experience on major public works projects, securing construction permits and licenses, and working with Southern California state, federal and local agencies.

- Construction Management Team may include a Construction Manager as lead (e.g. Resident Engineer) dedicated to the Project, with participation from a civil engineer licensed in the state of California, and a structural representative with experience in materials, foundations, materials testing, scheduling inspections and analyzing results.

- End of Part II -

PART III. PROJECT DESCRIPTION

Migratory fish passage on Arroyo Trabuco is blocked at the Metrolink Railway crossing in the City of San Juan Capistrano, preventing access to the upper watershed for state and federally endangered Southern steelhead trout. The barrier at the Metrolink Railway crossing is a result of utility crossings and associated erosion protection facilities (grouted riprap) immediately downstream of the railway that have developed into a 30-ft vertical drop as the creek incised over time. The remediation of this barrier constitutes a major step in returning steelhead to their historical spawning stream reaches in the headwaters of Arroyo Trabuco. Additionally, multiple habitat improvements are incorporated into the Project to protect biological and cultural resources and to allow for sustainable fish and aquatic species passage and survival, including restoration of a more natural channel morphology, invasive species management, and enhancement of riparian vegetation and natural channel features.

The Project consists of removing this barrier to fish passage and providing new passage through a 420 ft long nature-like fishway pool-and-chute type ramp; protecting existing infrastructure by stabilizing the utility crossing, restoring approximately 3,700 feet of the Arroyo Trabuco channel; improving water quality; improving habitat for multiple species; all of which would subsequently enhance open space and recreational opportunities for residents and visitors.

This Project will also replace the grouted rock grade control structure and flood conveyance structure located below the Metrolink bridge, which is currently undercut and at risk of failure, with a stable roughened channel for flood conveyance and providing a bypass chute-and-pool roughened channel fishway. Nearly 2,000 feet of channel upstream of the Metrolink bridge will also be restored, which will provide water quality improvements, invasive plant and wildlife species removal, aquatic and riparian habitat enhancements, and fish passage improvements from the confluence of Oso Creek and Arroyo Trabuco upstream to the Orange County flood conveyance structure where the I-5 crosses Arroyo Trabuco.

The channel downstream of the Metrolink railroad bridge crossing is currently subject to scour due to the drop height and erosion of the right bank. This portion of channel and the toe of the right bank slope would be stabilized by reconstructing the channel invert with rock or material designed for stability during flood events. Replacement of the existing Metrolink drop structure will provide sufficient grade control to stabilize the lower gradient reach between the Metrolink drop structure and the upstream Orange County flood conveyance structure at the I-5 crossing. A new equestrian/multi-use trail will be constructed slightly upstream of its current location beneath the Metrolink railway to replace the existing equestrian trail that will be removed.

At the Metrolink crossing, the Project includes the following elements:

- 1.A roughened channel fishway located along the right bank of the channel (looking downstream) comprised of an approximately 130-ft long rock ramp, a turning pool and approximately 420-ft long pool and chute roughened channel fishway.
- 2.Portions of fishway will include concrete walls and floor and portions will be constructed entirely of rock. The fishway surface will be constructed using a rock fill with a specified gradation, or Engineered Streambed Material (ESM), according to California Department of Fish and Wildlife (CDFW) guidance.
- 3.Near the downstream end of the fishway, a fish guidance barrier will be installed across the flood channel to guide upstream migrating fish to the fishway entrance. Most of the guidance barrier will

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange County be constructed of rock, with a short concrete low flow ramp section near the turning pool.

4.The existing concrete and grouted rock drop structure will be replaced with a new concrete drop structure and stilling basin.

5.The existing over-steepened right bank of the channel will be regraded and revegetated. A maintenance road will be located along the toe of the bank adjacent to the pool and chute fishway, and a ramp extending diagonally from the maintenance road to the top of slope.

6.The fishway will connect to the existing stream channel upstream of the Metrolink Bridge via an exit channel constructed of concrete and rock. The exit channel design and stabilization of the drop structure crest includes a pedestrian/equestrian trail and a bridge across the exit channel.

In the Stream Reach between the I-5 and the Metrolink fish passage improvements, the Project includes:

Restoration of nearly 2,000 feet of channel between I-5 and Metrolink crossings to include the following elements.

1.Constructed riffles and placement of stream bed material in the existing channel to raise or maintain the existing profile and increase connectivity with the floodplain and reduce aquatic invasive habitat.

2.Grading of a portion of the right bank to increase floodplain area, reduce flood velocities, and provide expanded area for planting native species.

3.Replacement of a failed rail and wire bank protection structure on the left bank of the channel with biotechnical bank protection incorporating large woody material, rock, and vegetation; and regrading and revegetation of the floodplain bench above the bank protection with native species.

4.Stabilization of local storm drain outfalls along the left bank to reduce erosion and improve water quality.

*The Respondent should be aware that the Project is subject to In-Stream Work Windows in which work can be performed in the channel between June 1 – Nov 15. Upland work may be scheduled outside of work windows, but respondent should allow for these pauses in construction in their budget.

California Trout, a statewide environmental non-profit organization, is lead for the Project. The Project was designed by Northwest Hydraulics Consultants, in conjunction with GFT, Inc. and Mike Love & Associates, Inc., and comprises civil, hydrological, and structural plans that were reviewed by County of Orange, City of San Juan Capistrano, Orange County Transportation Association (OCTA), PACE Engineering, and pending review by Southern California Regional Rail Authority (SCRRA). San Diego Regional Water Quality Control Board has preliminarily accepted the role of CEQA lead for this streamlined permitting through the State Water Board General Order with Programmatic EIR for restoration projects. The Project is funded and ready to start construction in October 2026, pending permit authorization, final approval of design plans by the aforementioned entities, and selection of a General Contractor and Construction Manager. Funding for the fish passage barrier remediation and habitat restoration project is secured from federal and state agencies with additional support from local community foundations.

- End of Part III -

IV. Construction Manager Proposal Elements:

This RFP is to contract a Construction Manager to oversee construction of the new fish passage structure, associated improvements, and habitat restoration for the Arroyo Trabuco Metrolink Barrier Remediation Project. The Construction Manager will coordinate with the General Contractor (GC, TBD), Owner Representative, and Team members to ensure that the project is completed on schedule and on budget. The Construction Manager will interact with the Engineer of Record and Permitting Specialist. Their respective roles are already defined and funded.

The Construction Manager roles stated below are a guideline for the proposal. The following Construction Sequence lays out GC roles by task. This list is not all inclusive and the CM is responsible for coordinating with the GC to ensure that all functions are covered to complete the Project on time and on budget.

Construction Sequence and Timeline:

Construction Manager Selection	55	3/6/2026	4/27/2026
General Contractor Selection	66	3/23/2026	6/23/2026
Design & Permitting	516	8/5/2025	10/13/2026
City of San Juan Capistrano Coordination/Permitting	216	8/5/2025	6/30/2026
Orange County Transit Authority (OCTA)	420	1/15/2026	6/7/2026
SCRRRA/Metrolink	143	3/23/2026	10/13/2026
Moulton Niguel Water District (MNWD)	55	3/21/2026	6/8/2026
PACE - Orange County	60	1/30/2026	4/24/2026
Regulatory Permits	485	10/31/2025	10/7/2026
Cultural Resources Consultations & Agreements	206	12/1/2025	6/29/2026
Preconstruction - Submittals	50	7/9/2026	9/17/2026
Construction - Mobilization	169	10/13/2026	6/16/2027
Construction - Regrade North Slope, D/S Access, Soil Nail Walls	32	6/3/2027	7/19/2027
Construction - Construct Remaining Walls	85	7/20/2027	11/15/2027
Construction - Construct Type 1 Fishway	25	6/1/2028	7/5/2028
Construction - Construct D/S Channel, Fish Guidance Barrier, RSP	10	7/6/2028	7/19/2028
Construction - Winterization	15	11/16/2027	12/7/2027
Construction - Recommission Dewatering & Bypass Systems	5	5/24/2028	5/31/2028
Construction - Construct Type 2 Fishway	40	6/1/2028	7/26/2028
Construction - Construct Drop Structure	50	7/27/2028	10/4/2028
Construction - Rock Apron and D/S Channel Grading	5	10/10/2028	10/16/2028
Construction - Rock Slope and Grouted Rock	11	10/17/2028	10/31/2028
Construction - Final Paving	3	11/1/2028	11/3/2028
Construction - Final Touches	8	11/6/2028	11/15/2028
Middle Reach Channel Improvements	223	6/3/2027	10/25/2028
Site Restoration & Revegetation	5	11/16/2028	11/22/2028

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange County

In the Proposal, respondents should describe the Construction Manager Roles and Responsibilities in the context of General Contractor roles presented in the GC RFP for this project (and Addendum 1). The respondent should provide assurance that the CM and the CM team will be sufficiently dedicated to the project that he/she will be available when needed without delay.

In the proposal, include hours and expenses for the Construction Manager by Task (see Construction Sequence below) and Timeline (above). Include hours and expenses by task and timeline for other project staff from your firm providing on-call services such as engineers, structural representative, administrative support, and how their roles are different from Construction Manager, and essential for the project.

Level of detail requested in describing the Construction Manager's role include but not limited to their control over the following.

Requests for Information and Submittals

Direct questions on monitoring and permitting, environmental conditions during construction to Permitting Specialist; ensure that monitors are lined up at appropriate time.

Respond to RFIs and questions received from City, County, SCRRA, Moulton Niguel Water District, GC, CalTrout, others.

Ensure that submittals are prepared/approved in a timely manner.

Enter Project Data into ProCore or similar.

Project Schedule and Budget, Coordination

Coordinate with GC on Project schedule and budget.

Incorporate GC budget into master resource spreadsheet

Preconstruction layout and sequence

Report weekly to Project Manager (CalTrout)

Bidding and Contracts

Prepare RFP for GC review and participate in GC collection

Prepare bid documents and tabs as needed - those not led by GC

Review contractor proposals

Negotiate contracts and amendments with external vendors not under contract with GC

Maintain RFP and RFQ library with Bid tabs and contractor evaluations and selection/award letters

Change Orders

Ensure that change orders are required and appropriate; and that they're integrated into budget and approved by CalTrout

Review work performed by GC, sign off on payment for percentage of items

Interact with City of San Juan Capistrano on change orders, design or in-field work changes

Lead scheduling for monitoring personnel (cultural, BMPs, SWPP'S, Safety) upon coordination with GC

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange County

Project Site Process and Safety

Review surveying features and reviewing pre-excavation profiles and cross sections

Prepare Record of Materials

Implement City of San Juan Capistrano & County of Orange Inspection Guidelines, including site visit and inspection

Coordinate construction activities and safety with project participants and stakeholders including the GC, inspectors, Tribal representatives, archaeologists, biological monitors, Railroad representatives, County of Orange, City of San Juan Capistrano, and others

Review and approve earthwork activities proposed by GC, that they comply with permit documents and civil plans.

Keep records of workers and equipment, duration on site, monitors on site during construction.

Ensure GC PayApps are accurately submitted and tracked to Owner.

Coordinate with utilities and Moulton Niguel Water District on subsurface lines

QC materials testing and surveying data

Finalize lists of needed construction and erosion control materials

Review concrete and other materials lab testing submitted by the GC

Review geotechnical boring lab testing and communicate results to GC and Owner

Ensure that SWPPP is implemented

Oversee communications with utility providers and that easements are followed by GC.

Review contract progress schedule, SPCC Plan, Temporary Water Pollution Erosion Control Plan

Finances, Risk Management and Construction Documentation

Provide invoices and prevailing wage documentation received from GC and vendor invoices to CalTrout for invoicing agencies

Update and assess risk management matrices, send to CalTrout weekly

Maintain library of constructability review, engineering reports

Maintain library of environmental documents

Review submittals for request to sublet work, statement of intent to pay prevailing wage.

Coordinate inspections with SCRRA, City of San Juan Capistrano, Orange County Public Works

Manage punch list inspections for close-out

Team Leadership and Reporting

Lead weekly Team meetings

Generate Team meeting reports and weekly CM reports within 7d of occurrence

Meet weekly with GC and Owner

CONSTRUCTION SEQUENCE – GENERAL CONTRACTOR ROLES AND RESPONSIBILITIES - SUPPLEMENTAL INFORMATION

	Demolition, Clear and Grub, Site Preparation	6.2
	GC shall submit a Demolition and Removal Plan to the Owner at least 10 days prior to the commencement of work including the sequence and timing of removals, methods for sawcutting and removing concrete marked in the Plans for removal, haul routes and disposal locations for removed items, techniques for tree removal, proposed tree salvage location and storage locations, and an arborist report.	
	Demolition will include the removal of approximately 2,300 S.Y. of grouted rock; sheet piles and slurry pipe protection; approximately 100 L.F. of CMP; concrete rubble located along the est bank of Trabuco Creek; approximately 500 L.F. of wood post fence; approximately 100 S.Y. of failed concrete outfall channel; approximately 700 L.F. of failed metal gabian fence. Contractor is responsible for hauling, transport, cleaning, and disposal of all discarded materials at a designated waste/recycling facility	
	GC is responsible for protecting in place all other existing facilities not specifically identified for demolition. GC will coordinate protection of any utilities within the project area including locating two 30-inch diameter sewer lines within the project site and coordinating a monitor from MNWD to be present for any demolition/excavation work performed within 15 feet of the sewer lines.	
	Clearing and grubbing shall include but not be limited to clearing and grubbing activities for setting construction staging and access areas; items on the plans marked for removal but not specifically included in other items of work; trash, debris, obstruction, existing facilities, and vegetation located within the project work limits and easement area that interferes with the Contractor’s operations. Contractor will adhere to specifications regarding tree removal, trimming, and protection as well as protection of irrigation lines and removal of combustible materials.	
	Traffic Control and Staging	6.3
	The Contractor shall minimize disruption to vehicular, bicycle, equestrian, and pedestrian traffic at all times during construction activities. The Contractor shall provide, maintain, and operate all equipment and facilities to ensure the effectiveness and safety of the vehicular and pedestrian traffic throughout and/or near the Contractor’s work area. The Contractor shall provide and maintain barriers, guards, lights, signs, temporary bridges, flaggers, and watchpersons.	
	Contractor shall furnish and provide the owner with the following plans prior to the commencement of work: Construction Access Plan; Staging and Stockpile Plan; Materials Hauling Route Plan; Plans for Temporary Trail Route Closures and Detours	
	Contractor shall provide and install temporary fencing for safety and security to secure the jobsite and staging areas from public access, vandalism, and theft. Temporary fencing shall conform to OC Public Works Standard Plan 600-3-OC, and all temporary fencing shall be removed from the jobsite prior to demobilization.	
	Contractor shall: assume responsibility for all aspects of staging area management including exclusion of the public and safety and security within each area of use; store and maintain materials in an orderly condition; provide containment areas for fueling and hazardous materials and maintain materials on site to cover materials and stockpiles in rain events in accordance with the SWPPP and the Plans; provide access to	

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	<p>materials delivered to the site for inspection by the Owner; Maintain staging and storage areas to be clean and free of refuse; water as needed to control dust as specified in the SWPPP, project permits, and BMP's outlined in the Special Provisions; maintain secondary containment systems for equipment storage and fueling; restrict vehicle parking to areas designated in the approved Staging and Stockpiling Plan.</p> <p>Following completion of the work, the Contractor shall: completely remove construction materials and equipment at the completion of construction and dispose of all trash, waste, and foreign material in accordance with local regulations; remove temporary construction facilities; restore Dewatering Infiltration Area and Potential On-site Disposal Area with decompacting by ripping and then grading the finish ground surface to naturally blend with adjacent ground and apply a 1-inc layer of certified weed free mulch or wood chips to the finish ground surface and re-seed in accordance with the REVEGETATION Special Provisions.</p>	
	<p>Control of Water</p>	<p>6.4</p>
	<p>Contractor shall provide a Detailed Stream Bypass and Diversion Plan including: proposed locations of diversion structures, diversion pipelines, and diversion system construction phases; all materials used to construct the diversion structures and pipeline components; a description of excavation, shoring, storage of and use of excavated materials, and bedding and backfill for the diversion pipeline; a description of methods to be used to install and maintain the diversion; a list of the machinery and heavy equipment required to implement each phase of construction; a description of methods to be used to protect water quality during installation of the diversion; a description of timing and methods for removal.</p>	
	<p>Contractor shall provide a Dewatering Plan including: layout and sizing of all pipes, pumps, tanks, valves, and system components associated with construction dewatering and associated temporary water pollution control; all items, materials, and machinery required to construct each part of the dewatering and disposal system; any in-water work required for installation and removal of dewatering equipment; design data to demonstrate the required system capacity and performance.</p>	
	<p>The temporary stream bypass system shall be: designed and constructed to withstand expected construction and hydraulic loads; designed so all components are watertight and in accordance with manufacturers recommendations for any pre-manufactured components; return diverted flow to Trabuco Creek downstream of project elements and downstream of any temporary access routes; monitor and ensure acceptable water quality according to requirements in project permits, SWPPP, and BMP's in Special Provisions.</p> <p>The proposed stream diversion structure shall: incorporate measures to reduce seepage around, through, and under the structure to reasonably minimize the need for downstream dewatering; no visible surface flow shall be noted int the vicinity of the bypass structure; measures to reduce seepage may include keying in the structure below the existing streambed, encapsulating portions of the barrier with plastic or other impermeable material, or similar approved measures; remove any water that accumulates in the project area downstream.</p>	

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	<p>Dewatering systems shall conform to: the temporary dewatering system shall be capable of removing ponded water from any location in the construction zone at a minimum rate of 500 gpm, providing pretreatment to remove sediment, and conveying flow to the infiltration application field in manner that does not result in erosion or site runoff (minimum pre-treatment storage volume of 30,000 gallons is required); minimize seepage around and underneath upstream bypass structures to limit inflows to the temporary dewatering system design capacity; use for temporary excavations and shoring; capably of withstanding expected construction loads due to equipment traffic and excavation.</p>	
	<p>Dewatering efforts shall include: temporary power and install the dewatering system in accordance with the approved Plan and SWPPP; install dewatering sumps and suction locations in a manner that minimizes entrained sediment; provide hoses as necessary to allow relocation of sumps and pumps within the work area; duplicate the power supply and disposal pump to provide for continuous operation in the event of power or equipment failure or demonstrate the ability to repair/replace pumping and control equipment within 24 hours in the event of a failure; include check valves with the pipelines to prevent backflow, air and vacuum valves, and surge protection as needed to protect the pipeline from adverse pressure surges; test the dewatering system to ensure that pumping, pre-treatment, and distribution systems are fully functional; maintain back-up supplies and equipment to facilitate rapid repair and adjustments as needed; monitor systems for leaks and irregularities; minimize seepage around, through, and under bypass structures to reasonably limit inflows to the temporary dewatering system design capacity; provide sumps, pumping, dewatering, and cleaning operations necessary to complete the work and convey turbid waters to the Dewatering Application Field; provide sediment and erosion control measures for discharge of water; immediately stop or modify the dewatering operation if erosion or surface runoff is identified.</p>	
	<p>Shoring and Structural Stabilization</p>	<p>6.5</p>

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange County

	Shoring or bracing may be applicable to any excavation regardless of width to prevent sloughing of excavated materials or sloughing of materials surrounding portions of structures to be protected in place. Excavated materials may range from native material, engineered fill, or gravel base beneath existing structures. Contractor shall be responsible for the installation and removal of all shoring and bracing required to perform the Work designated in the Construction Documents.	
	Earthwork	6.6
	Earthwork shall include grading of the north slope adjacent to the North Access Road, the north slope and floodplain in the Middle Reach, and the south slope of the Middle Reach adjacent to Camino Capistrano.	
	Relative compaction of not less than 95% shall be obtained in all areas not marked for planting for a minimum depth of 0.5 foot below the grading plane.	
	Within the OHW, trenches, holes, depressions and pits caused by the removal of facilities in areas of general grading shall be backfilled with Streambed Sediment. Outside the OHW in areas of general grading where planting is not required, for any areas requiring fill to level depressions or irregularities, utilize Aggregate Base. Outside the OHW where planting is required, fill trenches, holes, depressions, and pits caused by the removal of facilities shall be backfilled with salvaged or imported topsoil.	
	Subgrade tolerances for pavement, sidewalk, curb and gutter, roadway, wall, or channel structures shall not vary more than 0.05 foot from the specified grade and cross section. Subgrade for subbase or base material shall not vary more than 0.10 foot from the specified grade and cross section.	
	Soil Handling	6.7
	Work shall include the off-haul of all excess materials excavated from within the work limits. Material may be hauled to the Onsite Soil Disposal Area as shown in the Plans and stabilized per Plan requirements. When the Onsite Soil Disposal Area is deemed full by the Owner, the remainder of material shall be hauled off-site in accordance with pre-defined Plans. When hauling, loads shall be trimmed and all material removed from shelf area of vehicles in order to eliminate spilling. All loads of granular materials will require tarps to eliminate spillage, fugitive dust, and/or other nuisances.	
	Wall Construction	6.8
	The North Access Road Wall shall include excavation required for the construction of the wall, grading to the lines and grades shows in the Plans, shotcrete, and reinforcement. The wall will be completed as a soil nail construction as described in the Plan.	

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange County

	<p>The Upstream Trail Wall shall include excavation required for the construction of the wall, grading to the lines and grades shown in the Plans, structure concrete, and reinforcement.</p>	
	<p>The South Channel Wall shall include excavation, grading to the lines and grades shown in the Plans, structure concrete, and reinforcement.</p>	
	<p>The Contractor shall execute soil nailing consisting of installation of soil nail ground anchors including drilling, furnishing, installing, and testing permanent soil nails at locations indicated in the Plans.</p>	
	<p>The Contractor shall execute shotcrete consisting of shotcrete, geocomposite drainage material, weepholes, and reinforcing steel, for the construction of shotcrete soil nail wall facing and anchored shotcrete wall stem as shown on the Plans. Shotcrete shall consist of Portland cement concrete containing aggregate, with an accepted accelerator if required, pneumatically projected at high velocity onto a surface, In the dry-mix process, dry materials are mixed thoroughly and transported pneumatically to a nozzle, where water, any liquid admixtures, and accelerator are introduced in the stream feed and then immediately sprayed onto the target surface with compressed air. In the wet-mix process, all shotcrete materials are mixed thoroughly within a batch/mix plant, transported via positive displacement pump to a nozzle where accelerator, if required, is introduced into the stream feed, and then immediately sprayed onto the target surface with compressed air.</p> <p>The Contractor shall adhere to the Special Provisions regarding shotcrete production, surface preparation for placement of shotcrete, forms, wall drainage, placement of reinforcement, joints, placement of shotcrete, curing and protection, repair and patching, and quality control.</p>	
	<p>Fishway Construction</p>	<p>6.9</p>
	<p>Work for the Type 2 Fishway and Roughened Channels shall include placement and construction of roughened channel ESM chutes and grouted ESM chutes within the concrete Type 2 Fishway Structure as well as the placement of Streambed Boulders within the pools of the Type 2 Fishway as shown in the Plans. Also included in this work is the construction of a roughened channel in the Middle Reach.</p> <p>This work includes adjustments of the North Fishway Wall and concrete floor around two 30-inch diameter sewer lines as shown in the Plans. As shown in the Plans, the work will reduce the depth of the soil nail wall so that it clears the existing sheet pile, sewer pipes, and concrete protection. The floor also will be raised and sloped to go over the obstruction as shown in the Plans. If the existing pipelines and concrete protection is higher than that shown in the Plans by more than 12 inches, a Change Order will be required and the Contractor will receive direction from the Owner regarding how to adjust the work to resolve any conflicts.</p>	
	<p>Work of the Type 1 Fishway shall consist of the construction of the Type 1 Fishway structure, including chutes, pools, and rock berm; rock slope protection along the edges of the fishway; fishway turning pool and entrance channel; transitioning ESM bank between the fish guidance barrier and the fishway entrance channel; construction of a roughened channel within the fishway entrance channel.</p>	

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	A roughened channel shall be created in each chute segment of the roughened channel fishway using ESM. The work shall include all earthwork, streambank boulder placement, ESM, and sealing in the voids with streambed sediment to construct the channel to the elevations, grades, and forms shown in the Plans.	
	Fishway Exit Channel work shall include structural concrete channel walls, floor, and cutoff walls as shown in the Plans.	
	Fish Guidance Barrier work shall include a complete rock structure spanning the channel from the Type 1 Fishway rock berm on the north to the rock slope protection on the existing south channel bank; a concrete low flow ramp immediately adjacent to the Type 1 Fishway rock berm; and a smooth rock apron immediately downstream of the Fish Guidance Barrier.	
	Flood Conveyance Construction	6.10
	Work shall include the construction of the stilling basing, drop structure, and crest as shown in the Plans, along with associated cutoff walls, low flow entrances, sill, chute blocks, baffle blocks, outmigrant channel, and grouted rock protection. Work includes a complete concrete structure confined by a rock apron downstream, the fishway exit channel upstream, the Type 2 Fishway Structure (South Fishway Wall) to the north, and the South Channel Wall to the south. Work also includes texturing of the concrete surface associated with the multi-use trail as shown in the Plans, including the notched trowel finish of the trail and cobble textured shoulder. The grouted rock adjacent to the fishway exit channel and lining the south edge of the crest and fishway exit pool shall be included in the work.	
	Utilities	6.11
	<p>Sewer pipeline protection shall include the Contractor's efforts to protect and prevent damage to two existing 30-inch diameter pipelines along with associated sheet piles and concrete protection. Work shall include potholing, using caution when working over or around pipeline infrastructure, coordination with Owner, and any incidental issues associated with preparing the existing sheet piles and concrete protection for construction of the Type 2 Fishway Structure.</p> <p>The position of the existing pipeline infrastructure shown in the Plans was based on as-built drawings provided by the utility owner. However, some uncertainty exists in the actual horizontal and vertical position of the infrastructure and the Contractor will ascertain the precise location of the pipeline prior to commencing grading of the north slope and construction of the North Access Road Wall, North Access Road, Type 2 Fishway Structure, Drop Structure, and South Channel Wall. Once located, provide the Owner the precise location of the infrastructure. If the existing infrastructure is shown to be more than 12 inches above the position shown in the Plans, the Owner will provide direction for adjusting the conflict and issue a Change Order to the Contractor.</p>	
	Multi-Use Trail Bridge	6.12
	Work shall include abutments, bridge slab, parapet walls, and handrails as shown in the Plans.	
	Access roads, trails, and ramps shall consist of a permanent concrete access road parallel and adjacent to the fishway; a permanent concrete pad at the bottom of the access road allowing maintenance vehicles to turn around; connection of the Multi-Use Trail (a permanent concrete and gravel path crossing the crest just upstream of	6.13

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange County

	<p>the drop structure) with the existing trail connections to the north and south; three temporary construction access ramps connecting the existing trail with Trabuco Creek; miscellaneous permanent gates, fences, and signage.</p> <p>Drainage ditches shall consist of small drainage channels adjacent to the North Access Road Wall and the North Access Road as shown in the Plans</p>	
	Intervening Reach Restoration	7.1
	<p>Downstream Reach Channel Improvements shall consist of shaping the floodplain downstream of the Stilling Basin and bounded by the fishway to the north and the south channel bank as shown in the Plans. Work shall include construction of the Low Flow Channels between the Stilling Basin and the Guidance Barrier.</p>	
	<p>Middle Reach Channel Modifications shall consist of the placement of Streambed Fill and Streambed Boulders within the Middle Reach of Trabuco Creek per Type "A" and Type "B" Channels and to the lines and grades shown in the Plans; the construction of the Riffles and Pools shown in the Plans; using Streambed Sediment to seal up materials and keep creek flow on the surface of the channel; placement of Cobble/Soil Mix as a dressing to cover the floodplain and benches within the Middle Reach.</p> <p>For Riffle and Pool construction, Streambed Boulders shall be placed first as shown in the Plans and as directed by the Owner prior to placement of ESM or in a sequenced placement as required. Placement of Streambed Boulders and ESM may require regular adjustments to boulder placement in order to meet project objectives. Contractor shall plan a minimum of three adjustments (minor shifting or rotating) of each Streambed Boulder during placement of ESM.</p>	
	Rock Protection	7.2
	<p>Rock Protection shall include Rock Slope Protection, Rock Toe Protection, Rock Aprons, and bedding. Excavation and fill necessary to develop the appropriate subgrade lines and grades as shown in the Plans shall also be included. Rock Protection areas include: the upper bank slope protection along the west side of the Fishway Exit Channel; upper bank slope protection along the north side of the Type 1 Fishway; rock along the south bank of the channel downstream of the Drop Structure; rock aprons adjacent to concrete wall footings; Rock Apron downstream of the Stilling Basin; Rock Slope Protection along the north bank of the Fishway Exit Channel; Rock Slope Protection adjacent to the south Metrolink abutment; the Rock Toe constructed along the base of the slope adjacent to Camino Capistrano.</p> <p>Work also includes reconstruction of a failed existing culvert outlet channel.</p>	

- End of Part IV-

PART V. RECENT CONSTRUCTION PROJECTS

Contractor shall provide information about its six most recently completed public works projects in CA and its largest infrastructure projects completed in the last five years. Names and references must be current and verifiable.

Use separate sheets of paper for each project. Use the form on the next page or substitute a similar form that has the same order of requested information.

– End of Part V –

PART VI: PROPOSAL EVALUATION, SCORING MATRIX, AWARD

The CONSTRUCTION MANAGER will be selected from an open public RFP process. The selected firm will provide the best value to complete the work, not necessarily the lowest bid, but one that combines the required experience, availability to start upon request, superior work history, demonstrated responsiveness to requests, reference support and pricing that gives the bidder the highest score.

SCORING MATRIX

Category	Number of Points (partial points awarded up to max value)
Qualifications: Fully capable, qualified, insured, and licensed to provide the requested services.	20
Experience: Contractor meets qualifications.	20
Budget: Budget is below \$850,000	20
Technical: Proven track record of working effectively with civil and structural engineers, permitting specialists, tribal representatives, and contracting geological, seismological, and geotechnical engineering services.	10
Environmental: Committed to implementing environmental and cultural BMPs during construction. Experience with water quality BMPs.	10
Work history: Six references and examples of similar work.	10
Location: Experience with civil, structural work in Southern California, working with County of Orange. Office locations, including primary office, with project manager and subcontractors identified.	5
Project Scope: Demonstrates understanding of project. Proposal follows RFP structure.	5
TOTAL	100

– End of Part VI –

PART VII. GENERAL PROVISIONS

1. INDEPENDENT CONTRACTOR. At all times during the term of this Contract, Contractor shall be an independent contractor and shall not be an employee of CalTrout. Contractor will not be eligible to participate in any welfare or benefit plans of CalTrout. Contractor shall complete the Work in accordance with currently approved methods and practices in Contractor's field. CalTrout shall have the right to control Contractor only with respect to specifying the results to be obtained from Contractor pursuant to this Contract. CalTrout shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Contract. Likewise, no relationship of employer and employee is created by this Contract between CalTrout and Contractor or any subcontractor or employee of Contractor. Nothing contained in this Contract shall be construed as limiting the right of Contractor to engage in Contractor's profession separate and apart from this Contract so long as such activities do not interfere or conflict with the performance by Contractor of the obligations set forth in this Contract. Interference or conflict will be determined at the reasonable discretion of CalTrout.
2. STANDARD OF PERFORMANCE AND WORK SPECIFICATIONS. Contractor shall complete the Work required pursuant to this Contract in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession. The Work as defined in the Request for Proposal is to construct the Fish Passage Structure at Metrolink Railway Barrier on Trabuco Creek - Orange County, and associated tasks and coordination necessary to complete this Work. Contractor shall furnish all necessary management, supervision, labor, materials, tools, supplies, equipment, plant, services, engineering, testing and/or any other act or thing required to diligently and fully perform and complete the work. Contractor warrants to CalTrout that all materials and equipment furnished shall be new, free from faults and defects and of good quality. Contractor hereby warrants its work against all deficiencies and defects. During the term of this warranty, Contractor shall, without delay, provide all materials, parts, equipment and labor, at its own expense, which are necessary to repair and/or correct any and all defects, installation or operational failures in the equipment from any cause so that said Work will function successfully as originally contemplated. Notwithstanding the foregoing, Contractor shall not be required to bear the expense of correction of any failure in the equipment that is caused by the sole or active negligence or willful misconduct of CalTrout. Should Contractor fail to act promptly or in accordance with this requirement, or should the situation require that repairs or replacements be made before Contractor can be notified, CalTrout may, at its option, make the necessary repairs or replacements or perform the necessary work and Contractor shall pay to CalTrout the actual cost of such repairs. Contractor shall also pay to CalTrout any attorneys' fees incurred to enforce this guaranty.
3. PERMITS AND COMPLIANCE. Contractor, shall protect all materials to be used in the Work in accordance with the specifications and shall remove from the project site all debris resulting from performance of the Work no less often than daily. If Contractor fails to remove debris, CalTrout may, after twenty-four (24) hours' notice to Contractor, clean up the site and deduct the cost from the compensation amount. Contractor shall set up, identify, coordinate, provide safe access, and obtain all inspections for its work, as required by any authorized agency or applicable code, prior to covering up work. Contractor shall also keep itself fully informed of and comply with all applicable laws including existing and future state and federal laws and county and municipal ordinances and regulations which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

4. TIME. Contractor shall devote such time to the Work pursuant to this Contract as may be reasonably necessary for satisfactory performance of Contractor's obligations pursuant to this Contract. Time is of the essence of this Contract. Contractor shall provide CalTrout with scheduling information in a form acceptable to CalTrout, including any changes made by CalTrout in the scheduling of work. Contractor shall coordinate its work with that of the General Contractor and all other contractors, subcontractors and suppliers so as not to delay or damage their performance. If failure to communicate between Contractor and General Contractor results in delay of Contractor Work, Contractor is responsible for bearing the expense of delay and completing the work. It is further agreed that in case Contractor fails to complete the Work in all parts and requirements within the term of this Contract, CalTrout shall have the right to extend the term or not, as may seem best to serve the interest of CalTrout; and if it decides to extend the term CalTrout shall further have the right to charge to the Contractor, or its sureties, and to deduct from the payment for the Work, all or any part, as it may deem proper, of the actual cost of engineering, inspection, superintendence, and other overhead expenses which are directly chargeable to the Contract, and which accrue during the period of such extension. In the event that Contractor's work is delayed for any reason, including acts of CalTrout, Contractor's sole remedy shall be an extension of time equal to the period of delay, provided Contractor has given CalTrout written notice of the commencement of delay within forty-eight (48) hours of its occurrence. If CalTrout accepts any work or makes any payment under this Contract after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Contract provisions regarding time of completion and liquidated damages.

5. CHANGES IN WORK.

a. Contractor shall make no changes in the Work without written direction from CalTrout or Engineer of Work. Contractor shall not be compensated for any change made without any such written direction. No changes in the Work covered by this Contract shall exonerate any surety or any bond given in connection with this Contract.

b. If CalTrout directs the Contractor in writing to make changes in the Work that materially affect the cost of performing the Work, the Contract price will be adjusted based on one of the following:

- i. Where the work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities involved in the changed Work;
- ii. By establishment of new unit prices and related quantities for the changed Work;
- iii. By a combination of existing and new unit prices and related quantities for the changed Work; or
- iv. By mutual acceptance of a lump sum.

If CalTrout directs the Contractor in writing to make changes in the Work that Contractor demonstrates materially affect the time required to perform the work, CalTrout will make a reasonable adjustment to the Contract Time.

6. CLAIMS. If any dispute shall arise between CalTrout and Contractor regarding performance of the Work, or any alleged change in the Work, Contractor shall give notice to CalTrout at least 48 hours prior to the time that the Contractor commences performance of the work giving rise to the potential claim for additional compensation. The written notice of potential claims shall set forth the reasons for which the Contractor believes additional compensation will or may be due, the nature of the costs involved, and, insofar as possible, the amount of the potential claim. If such notice is not given, the Contractor shall be barred from making any such claim for extra compensation.

CalTrout will, within a reasonable time after submission of the Contractor's claim, make decisions in writing on all claims of the Contractor. All such decisions of CalTrout shall be final unless the Contractor shall within ten (10) days after receipt of the CalTrout's decision, file with CalTrout a written protest, stating clearly and in detail the basis thereof. Such protest will be

forwarded promptly to Sandra Jacobson, CalTrout South Coast Director who will inform Al Roesberry (Chief Administrative Officer) if the potential dispute amount exceeds \$10,000, and receive approval from CAO or Finance Director within 24 hrs. The CAO or Finance Director will issue a decision upon each such protest, and the CAO or Finance Director's decision will be final. Pending such decision, the Contractor shall proceed with its work in accordance with the determination or instructions of CalTrout. It is hereby agreed that the Contractor's failure to protest the CalTrout 's determination or instructions, within ten (10) days from and after CalTrout's determinations or instructions, shall constitute a waiver by the Contractor of all its rights to further protest, judicial or otherwise.

It is the intention of this Section that the differences between the parties, arising under and by virtue of the Contract, be brought to the attention of CalTrout at the earliest possible time in order that such matters may be settled, if possible or other appropriate action promptly taken. The Contractor hereby agrees that it shall have no right to additional compensation for any claim that may be based on any act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was timely filed.

In an emergency affecting the safety of life, or of the work, or of adjoining property, the Contractor, without special instruction or authorization from CalTrout, is hereby permitted to act at the Contractor's discretion to prevent such threatened loss or injury, and it shall so act without appeal if so instructed or authorized. Any compensation claimed by the Contractor on account of emergency work shall be determined as specified herein. Should CalTrout deem an emergency condition to exist, the Contractor shall immediately do those things and take those steps ordered by CalTrout. The decision of CalTrout in this respect shall be final and conclusive. Any claims for compensation made by the Contractor on account of emergency work shall be determined as specified herein.

7. COOPERATION AND CARE. Should construction be under way by CalTrout, other agencies or other contractors within or adjacent to the limits of the work specified or should work of any other nature be under way by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other contractors or other forces to the end that any delay or hindrance to their work will be avoided. CalTrout reserves the right to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces. Until the final acceptance of the contract, the Contractor shall have the charge and care of the Work and of the materials to be used therein, including materials for which partial payment has been received. CalTrout shall not be held responsible for the care or protection of any material or parts of the Work prior to final acceptance.
8. DIFFERING SITE CONDITIONS. The Contractor shall promptly, and before the following conditions are disturbed, notify CalTrout in writing of any:
 - a. Material that the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;
 - b. Subsurface or latent physical conditions at the site differing materially from those indicated by information about the site made available to bidders prior to the deadline for submitting bids; or
 - c. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.

CalTrout shall promptly investigate the conditions, and if it finds that such conditions do materially so differ, or do involve hazardous waste, and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the Work, it shall issue a change order under the provisions described in the Contract Documents. No claim of the Contractor under this section shall be

allowed unless the Contractor has given the notice required in the Contract Documents. In the event a dispute arises between CalTrout and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, Contractor shall not be excused from completing the Work. The Contractor shall proceed with all work to be performed under the Contract. The Contractor shall retain any and all rights provided either by this Contract or by law which pertain to the resolution of disputes and protests.

9. CONTRACTOR NO AGENT. This Contract does not confer upon Contractor the right to bind CalTrout by contract or otherwise, except as specifically directed by CalTrout's Executive Officer. Except as CalTrout may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of CalTrout or as an agent of CalTrout.
10. BENEFITS AND TAXES. Contractor shall not have any claim under this Contract or otherwise against CalTrout for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, insurance benefits, social security, disability, unemployment, workers compensation or employee benefits of any kind. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, including, but not limited to, federal and state income taxes, and in connection therewith Contractor shall indemnify and hold CalTrout harmless from any and all liability that CalTrout may incur because of Contractor's failure to pay such taxes. CalTrout shall have no obligation whatsoever to pay or withhold any taxes on behalf of Contractor.
11. ASSIGNMENT PROHIBITED. No party to this Contract may assign any right or obligation pursuant to this Contract. Any attempted or purported assignment of any right or obligation pursuant to this Contract shall be void and of no effect. However, Contractor is entitled to subcontract such portions of the work to be performed under this Contract as provided by the Contract.
12. PERSONNEL. Contractor shall assign only competent personnel to complete the Work pursuant to this Contract. In the event that CalTrout, in its reasonable discretion, at any time during the term of this Contract, desires the removal of any such persons, Contractor shall, immediately upon receiving notice from CalTrout of such desire of CalTrout, cause the removal of such person or persons.
13. COMPLIANCE WITH LAWS.
 - a. *In General*. Contractor shall comply with the common law and all laws, ordinances, codes and regulations of governmental agencies, (including federal, state, municipal and local governing bodies) applicable to the performance of the Work hereunder, including, but not limited to, all provisions of the Occupational Safety and Health Act of 1979 as amended, all applicable provisions of the Labor Code, and the Immigration Reform and Control Act of 1986.
 - b. *Licenses and Permits*. Contractor represents and warrants to CalTrout that it has all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required for Contractor to practice its profession. Contractor represents and warrants to CalTrout that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Contract any licenses, permits, and approvals which are legally required for Contractor to practice its profession. Contractor's attention is directed to Business and Professions Code Section 7000 et seq. concerning the licensing of contractors. At the time Contractor submits its bid to CalTrout and all times Contractor is performing the Work, Contractor shall have a valid license issued by the Contractors State License Board in the classification required for the Work. Contractor and all subcontractors shall be licensed in accordance with the laws of this State and any contractor or subcontractor not so licensed is subject to penalties imposed by such laws.

- c. *Funding Agency Requirements.* Contractor shall comply with or provide documentation necessary for CalTrout to comply with any applicable requirements contained in the Grant Agreement(s).
- d. *Discrimination Prohibited.* Contractor shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor shall give written notice of its obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement. Contractor shall give written notice of its obligations under this non-discrimination clause to labor organizations with which Contractor has a collective bargaining or other agreement and shall post in conspicuous places available to employees and applicants for employment, notice setting forth the provisions of this section.

14. DOCUMENTS AND RECORDS.

- a. *Property of CalTrout.* All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, or other written documents or materials prepared by Contractor pursuant to this Contract shall become the property of CalTrout upon completion of the work to be performed hereunder or upon termination of this Contract. The Contractor agrees not to use for Contractor's own benefit or divulge to any third party, during the term of this Contract or at any time thereafter, the subject matter, any proprietary, internal, or confidential information belonging to CalTrout. All documents, materials, and records of a finished nature, including but not limited to final plans, specifications, video, or audio tapes, photographs, computer data, software, reports, maps, electronic files, and films, and any final revisions, prepared or obtained in the performance of this Contract, shall be delivered to and become the property of CalTrout, and Contractor further agrees that upon the expiration or sooner termination of this Contract, Contractor will deliver to CalTrout all proprietary or confidential information belonging to CalTrout. Contractor agrees to promptly disclose to CalTrout all discoveries, improvements, inventions, and proprietary data conceived or developed by the Contractor in performing services under this Contract, and agrees to execute such documents, disclose and deliver all information and data, and do all the other things which may be necessary or in the opinion of CalTrout reasonably desirable in order to effect transfer of ownership in or to impart a full understanding of such discoveries, improvements, inventions, and proprietary data to CalTrout and to no others.
- b. *Standards for Financial Management System.* Contractor and all subcontractors shall maintain fiscal control and accounting procedures which are sufficient to:
 - 1. Permit preparation of reports required by Title 48 CFR Part 31 (including those required by Title 48 CFR part 31.40 and 31.41) and statutes authorizing the grant funding this Contract.
 - 2. Permit tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

A requirement to this effect shall be placed in all subcontracts related to performance of work under this Agreement.

- c. *Retention of Records.* Contractor and its subcontractors shall establish and maintain records pertaining to this Contract. Contractor's and subcontractors' accounting systems shall conform to generally accepted accounting principles, and all records shall provide a breakdown of total costs charged under this contract, including properly executed payrolls, time records, invoices and vouchers. Contractor shall permit CalTrout and its authorized representatives to inspect and examine Contractor's books, records, accounts, and any and all data relevant to this Contract at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by Contractor pursuant to this contract and shall provide such assistance as may be reasonably required in the course of such inspection. Until the expiration of five years after the furnishing of any services pursuant to this Contract, Contractor shall retain and make available to CalTrout or any party designated by CalTrout, upon written request by CalTrout, this Contract, and such books, documents and records of Contractor (and any books, documents, and records of any subcontractor(s)) that are necessary or convenient for audit purposes to certify the nature and extent of the reasonable cost of services to CalTrout.
 - d. *Auditor Access.* Contractor agrees that auditors of the State of California have the right to examine Contractor's records relative to the goods, services, equipment, materials, supplies or other assistance provided to CalTrout for the Project.
15. CONFIDENTIAL INFORMATION. Contractor shall hold any confidential information received from CalTrout in the course of performing this Contract in trust and confidence and will not reveal such confidential information to any person or entity, either during the term of the Agreement or at any time thereafter. Upon expiration of this Contract, or termination as provided herein, Contractor shall return materials which contain any confidential information to CalTrout. Contractor may keep one copy for its confidential file. For purposes of this paragraph, confidential information is defined as all information disclosed to Contractor that relates to CalTrout's past, present, and future activities, as well as activities under this Contract. Contractor acknowledges that a breach of the provisions in this paragraph may cause substantial harm to CalTrout for which monetary damages will not provide a total and adequate remedy. Accordingly, in addition to any other remedy available at law or equity, CalTrout will be entitled to preliminary and permanent injunctions restraining Contractor from performing or continuing to do any act in violation of this paragraph without showing or proving actual damage as a result thereof.
16. DISCLOSURE REQUIREMENTS. Any document or written report prepared in whole or in part pursuant to this Contract shall contain a disclosure statement indicating that the document or written report was prepared through a Grant Agreement with the State. The disclosure statement shall include the Grant Agreement number and dollar amount of all Grant Agreements and subcontracts relating to the preparation of such documents or written reports. The disclosure statement shall be contained in a separate section of the document or written report. If the Contractor is required to prepare multiple documents or written reports, the disclosure statement may also contain a statement indicating that the total Grant Agreement amount represents compensation for multiple documents or written reports.
17. RESPONSIBILITY OF CONTRACTOR. Contractor shall take all responsibility for the Work, shall bear all losses and damages directly or indirectly resulting to Contractor, to any subcontractor, to CalTrout, to CalTrout officers and employees, or to Parties designated by CalTrout, on account of the performance or character of the Work, unforeseen difficulties, accidents, occurrences, or other causes predicated on active or passive negligence of Contractor or of any subcontractor.
18. INSPECTION AND PROTECTION OF WORK.
- a. Contractor shall make the Work accessible at all reasonable times for inspection by CalTrout and others needed for acceptance of elements of the bridge project requiring

inspection, and of the bridge as the Project. Contractor shall, at the first opportunity, inspect all material and equipment delivered to the jobsite by others to be used or incorporated in the Contractor's Work and give prompt notice of any defect therein. Contractor assumes full responsibility to protect the Work done hereunder until final acceptance by CalTrout.

- b. When the Work is completed, Contractor shall request, in writing, a final inspection. Within ten (10) days of the receipt of such request, CalTrout shall make a final inspection. The Contractor or its representatives may be present at the final inspection. The purpose of such final inspection shall be to determine whether the Work has been completed in accordance with the Contract Documents, including all change orders and all interpretations and instructions previously issued.

19. UTILITY FACILITIES.

- a. Contractor shall protect from damage any utility facilities that are to remain in place, be installed, relocated, or otherwise rearranged.
- b. If Contractor while performing the Work discovers utility facilities not previously identified in the Contract Documents, Contractor shall immediately notify CalTrout and the utility provider.
- c. If Contractor is required to repair damage not due to the Contractor's failure to exercise reasonable care, and remove or relocate existing main or trunk line utility facilities, it shall be compensated under the Changes section of this Exhibit (Section 6), including payment for costs associated with equipment on the Project necessarily idled during such work.
- d. Contractor will not be entitled to damages or additional payment for delays caused solely by the failure of CalTrout, or the utility provider, to provide for removal or relocation of existing main or trunk line utility facilities not identified in the Contract Documents, except for costs associated with equipment necessarily idled during such work.
- e. Contractor shall not be assessed liquidated damages for delay in completing the Work solely attributable to the failure of CalTrout, or utility provider, to provide for removal or relocation of existing main or trunk line utility facilities not indicated in the Contract Documents with reasonable accuracy.
- f. Attention is directed to the possible existence of underground facilities not known to CalTrout, or in a location different than the Parties presumed. The Contractor shall take all steps reasonably necessary to ascertain the exact location of all underground facilities prior to doing work that may damage such facilities or interfere with their service, including but not limited to calling USA utility locator service or Mammoth Mountain Ski Area to mark utilities.

20. ENVIRONMENTAL QUALITY. Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act, Title 42 U.S.C. 1857(h), Section 508 of the Clean Air Act, Title 33 U.S.C. 1368, Executive Order 11738, and Title 40 CFR part 15; applicable CEQA and 401 Certification terms; SWQMPP and SWPPP plans, and conditions set forth in the CEQA SMR Bridge Application Amendment PDS2020-LDGRMJ-30309- Revised 2022-0302 Signed CT 4-14-2022.

21. INDEMNIFICATION. Contractor and CalTrout agree that CalTrout, its employees, agents, and officials shall, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, defense costs, court costs, or any other cost arising out of or in any way related to the performance of this Contract. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the fullest protection possible under the law to CalTrout. Contractor acknowledges that CalTrout would not enter into this Contract in the absence of the commitment of Contractor to indemnify and protect CalTrout as set forth below.

- a. *Construction.* To the fullest extent allowed by law, Contractor shall defend, indemnify, and hold harmless CalTrout, its employees, agents, and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs (including, without limitation, costs and fees of litigation) of any kind whatsoever without restriction or limitation, resulting from injury to or death sustained by any person (including Contractor's employees and subcontractors), or damage to property of any kind, or any other injury or damage whatsoever, which injury, death or damage arises out of or is in any way connected with Contractor's negligent performance of the Work,; except that said indemnity shall not be applicable to injury, death, or damage to property arising from the sole or active negligence or willful misconduct of CalTrout, its employees, agents, and officials. In instances where CalTrout's sole negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion of percentage of liability not attributable to the sole negligence of CalTrout.
- b. *Contractor Obligation.* Contractor shall be obligated to immediately defend, with counsel approved by CalTrout, any suit or action brought against CalTrout, its employees, agents, and officials, founded upon any claim of injury to or death sustained by any person (including Contractor's employees and subcontractors), or damage to property of any kind, or any other injury or damage whatsoever, which injury, death, or damage arises out of or is in any way connected with the performance of the Work, whether or not liability is established. If it is finally adjudicated that liability was caused by the sole or active negligence or willful misconduct of an indemnified party, Contractor may submit a claim to CalTrout for reimbursement of reasonable attorneys' fees and defense costs. This indemnification and duty to defend shall extend to claims asserted after termination of this Contract for whatever reason.
- c. *Scope of Contractor Obligation.* The obligations of Contractor under this or any other provision of this Contract will not be limited by the provisions of any workers' compensation act or similar act and are not limited to the amount of any insurance proceeds. Contractor expressly waives its statutory immunity under such statutes or laws as to CalTrout, its employees and officials. Acceptance of insurance certificates and endorsements required under this Contract does not relieve Contractor from liability under this indemnification provision, and this indemnification shall apply whether or not such insurance policies are applicable to the damages or claims for damage subject to this indemnification provision.
- d. *Subcontractors.* Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, subtier contractor, or any other person or entity involved by, for, with, or on behalf of Contractor in the performance or subject matter of this Contract. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section.
- e. *In General.* This obligation to indemnify and defend CalTrout as set forth herein is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this Contract. Notwithstanding any other provision in this Contract, Contractor shall reimburse CalTrout for reasonable attorneys' fees or other costs incurred in enforcing the provisions of this Section 21. In addition to any remedy authorized by law, as much of the money due Contractor under and by virtue of this Contract as shall be considered necessary by CalTrout, may be retained by CalTrout until disposition has been made of any suits or claims for damage. CalTrout and Contractor shall timely notify each other of the receipt of any third-party claim relating to the contract. CalTrout shall be entitled to recover its reasonable costs incurred in providing such notification.

22. DEFAULT AND REMEDIES.

- a. *Events of default.* Each of the following shall constitute an event of default hereunder:

- i. Failure to perform any obligation under this Contract and failure to cure such breach immediately upon receiving notice of such breach, if the breach is such that CalTrout determines the health, welfare, or safety of the public is immediately endangered; or
 - ii. Failure to perform any obligation under this Contract and failure to cure such breach within fifteen (15) days of receiving notice of such breach, if the breach is such that CalTrout determines that the health, welfare, or safety of the public is not immediately endangered, provided that if the nature of the breach is such that CalTrout determines it will reasonably require more than fifteen (15) days to cure, Contractor shall not be in default if Contractor promptly commences the cure and diligently proceeds to completion of the cure.
- b. *Remedies upon default.* Upon any Contractor default, CalTrout shall have the right to immediately suspend or terminate the Contract, contract with another party to perform this Contract and/or seek damages including incidental, consequential and/or special damages to the full extent allowed by law.
 - c. *No Waiver.* Failure by CalTrout to seek any remedy for any default hereunder shall not constitute a waiver of any other rights hereunder or any right to seek any remedy for any subsequent default.

23. TERMINATION.

- a. Should Contractor fail within five (5) working days from receipt of CalTrout's written notice to correct any contractual deficiencies, including but not limited to failure to perform the Work in accordance with the Contract Documents, failure to comply with the directions of CalTrout, or failure to pay its creditors, CalTrout may terminate this Contract for default. Following a termination for default, CalTrout shall have the right to take whatever steps it deems necessary to correct and complete the work and charge the cost thereof to Contractor, who shall be liable for the full cost of CalTrout's corrective action, including reasonable overhead, administrative costs, and attorneys' fees. Upon any Contractor default, CalTrout shall not only have the right to immediately suspend or terminate the Contract, but may also contract with another party to perform this Contract and/or seek damages including incidental, consequential and/or special damages to the full extent allowed by law.
- b. CalTrout may at any time terminate the Contract at CalTrout's convenience upon ten (10) days written notice to Contractor; in the event of termination for convenience, Contractor shall recover only the amount due under the contract for Work completed to the date of termination in accordance with the Contract Documents, less amounts paid to date. Contractor shall not be entitled to any claim or lien against CalTrout for any additional compensation or damages in the event of such termination.
- c. If CalTrout terminates Contractor for cause, and if it is later determined that the termination was wrongful, such default termination shall automatically be converted to and treated as a termination for convenience. In such event, Contractor shall be entitled to receive only the amounts payable under this section, and Contractor specifically waives any claim for any other amounts or damages, including, but not limited to, any claim for consequential damages or lost profits.

24. BONDS. Contractor will not provide a bond for the Construction Manager work.

25. DISPUTE RESOLUTION. The Parties shall make a good faith effort to settle any dispute or claim arising under this Contract. If the Parties fail to resolve such disputes or claims, they shall submit them to nonbinding mediation in California at shared expense of the Parties for at least eight (8) hours of mediation. If mediation does not arrive at a satisfactory result, arbitration, if agreed to by all Parties, or litigation may be pursued. In the event any dispute resolution processes are involved, each party shall bear its own costs and attorneys' fees.
26. LITIGATION. If any litigation is commenced between Parties to this Contract concerning any provision hereof or the rights and duties of any person in relation thereto, except as otherwise provided in this Contract, each party shall bear its own attorneys' fees and costs.
27. JURISDICTION AND SEVERABILITY. This Contract shall be administered and interpreted under the laws of the State of California. If any part of this Contract is found to conflict with applicable laws, such part shall be inoperative, null and void insofar as it conflicts with said laws, but the remainder of this Contract shall be in full force and effect.
28. PARTIES IN INTEREST. This Contract is entered only for the benefit of the Parties executing this Contract and not for the benefit of any other individual, entity or person.
29. WAIVER. Neither the acceptance of Work or payment for Work pursuant to this Contract shall constitute a waiver of any rights or obligations arising under this Contract. The failure by CalTrout to enforce any of Contractor's obligations or to exercise CalTrout's rights shall in no event be deemed a waiver of the right to do so thereafter.
30. INSURANCE. Contractor shall procure, at its sole cost and expense, the insurance coverages set forth below with respect to Contractor's operations in completion of the Sandia Creek Drive bridge project.
 - a. Sufficiency of Insurance. Before the final execution of this contract, Contractor and any Subcontractors shall produce a standard Accord form Certificates of Insurance with Insurance Carriers acceptable to California Trout, The Certificates shall also confirm Additional Insured Provision, Subrogation Waiver Provision and forward actual endorsements from the Contractor's insurance carriers evidencing required coverage amendments.
 - b. Contractor insurance policy name as additional insured: California Trout, County of Orange, City of San Juan Capistrano, Southern California Regional Rail Authority, Orange County Transportation Association, The Hsiao Family, California Department of Fish and Wildlife, National Oceanic and Atmospheric Administration.
 - c. Contractor will be required to present evidence to show, as a minimum, the amounts of insurance coverage indicated below:
 - (i) Workers Compensation and Employer's Liability. The Contractor is required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage.

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange

d. Contractor shall procure, at its sole cost and expense, the insurance coverages set forth below with respect to Contractor's operations in completion of the Metrolink Fish Passage Project in Trabuco Creek.

Sufficiency of Insurance. Before the final execution of this contract, Contractor and any Subcontractors shall produce a standard Accord form Certificates of Insurance with Insurance Carriers acceptable to California Trout, The Certificates shall also confirm Additional Insured Provision, Subrogation Waiver Provision and forward actual endorsements from the Contractor's insurance carriers evidencing required coverage amendments.

Contractor will be required to present evidence to show, as a minimum, the amounts of insurance coverage indicated below:

(a) Workers Compensation and Employer's Liability. The Contractor is required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's Liability Insurance with limits of liability of not less than (i) \$1,000,000 for bodily injury by accident, each accident, (ii) \$1,000,000 for bodily injury by disease, each employee, and (iii) \$2,000,000 aggregate liability for disease, except in States with exclusive or monopolistic funds that do not permit worker's compensation to be written by private carriers. The Workers' Compensation Insurance Policy must include a waiver of subrogation endorsement in favor of California Trout, County of Orange, City of San Juan Capistrano, Southern California Regional Rail Authority, Orange County Transportation Association, The Hsiao Family, California Department of Fish and Wildlife, National Oceanic and Atmospheric Administration.

(b) Commercial General Liability Insurance. A comprehensive form Commercial General Liability Insurance policy written on an occurrence basis, in form and substance reasonably acceptable to California Trout including, without limitation, an endorsement naming CalTrout ("Additional Insureds") as additional insureds, and an express clause or endorsement under which the insurer waives the right to use the defense of "governmental function" in any suits or actions that might be brought or made against any of the Additional Insureds or their respective officials, officers, directors, trustees, employees, and agents. The Commercial General Liability Insurance Policy must be written with a combined single limit of liability of not less than \$2,000,000 for each occurrence of bodily injury, fire and/or property damage and an annual aggregate of liability of not less than \$3,000,000 for bodily injury and/or property damage. An umbrella policy of \$10,000,000 will be negotiated before contract.

(c) Automobile Liability. The Contractor shall have automobile liability insurance written on a comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$1,000,000 per person and \$1,000,000 per occurrence for bodily injury and \$2,000,000 per occurrence for property damage or loss.

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange

(d) Contractors' Pollution Liability Insurance. Contractor shall purchase and maintain in force for the duration of the Agreement and for a period of two (2) years after completion of the project, insurance for pollution legal liability applicable to bodily injury; property damage, including natural resource damage, loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs, removal, storage, disposal, and or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims. Such insurance shall provide a coverage amount of not less than \$1,000,000 per occurrence.

- d. Failure to Provide Insurance. If Contractor fails to furnish and maintain insurance as required herein, Owner (California Trout) may cancel contract giving 10 days notice to comply. Except as otherwise expressly provided herein, all insurance policies required by the terms hereof shall be kept in full force and effect throughout the term of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the foregoing insurance requirements are in no way intended to, and will not in any manner, limit or qualify the liabilities and/or indemnities assumed by Contractor under or pursuant to this Agreement.
- e. Deductibles and Self-Insured Retentions. Contractor shall disclose the self-insured retentions and deductibles before beginning any of the Work called for by any term of this Contract. Any self-insured retention or deductible is subject to approval of CalTrout. During the period covered by this Contract, upon express written authorization of CalTrout, Contractor may increase such deductibles or self-insured retentions with respect to CalTrout, its officers, employees, agents, and volunteers. CalTrout may condition approval of an increase in deductible or self-insured retention levels upon a requirement that Contractor procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.
- f. Notice of Reduction in Coverage. In the event that any coverage required under the Contract is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to CalTrout at Contractor's earliest possible opportunity and in no case later than thirty (30) days prior to the change in coverage.

Remedies. In addition to any other remedies CalTrout may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CalTrout may, at its sole option:

- (i) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Contract;
- (ii) Order Contractor to stop work under this Contract or withhold any payment which becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof;
- (iii) Terminate this Contract.

g. General. Each policy of insurance referred to herein shall be issued by a company legally qualified to issue such insurance in the State of California. Each policy shall provide that it shall not be canceled or materially amended except after thirty (30) days' written notice to California Trout, and that it shall not be invalidated by any act or negligence of Contractor, or its partners, directors, officers, contractors, subcontractors, sponsors, vendors, volunteers, employees or agents.

h. Indemnification. Contractor hereby releases and agrees to protect, indemnify, defend and hold California Trout, County of Orange, City of San Juan Capistrano, Southern California Regional Rail Authority, Orange County Transportation Association, The Hsiao Family,

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange California Department of Fish and Wildlife, National Oceanic and Atmospheric Administration, their affiliates and all of their respective officers, directors, shareholders, members, volunteers, agents and employees ("Indemnified Parties") harmless from and against all liabilities, claims, losses, costs, damages, expenses (including reasonable attorneys' fees and disbursements), investigations, actions, suits, judgments and demands arising out of or in any way relating to (i) the Services; (ii) the negligence or willful misconduct of Contractor or any of its subcontractors, vendors, employees, laborers, materialmen or other suppliers in performing the Services or otherwise, provided that Contractor shall not be liable for losses, costs, damages, liabilities, expenses, actions, suits, judgments or demands resulting from the gross negligence or willful misconduct of any Indemnified Parties; (iii) Contractor's breach of any warranty or representation contained herein. If any Indemnified Party is forced to defend itself or Contractor in a suit in any way relating to this Agreement or any Services, Contractor agrees to cooperate in such defense as reasonably requested by the Indemnified Party. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

-End of Part VII-

PART VIII: LICENSES AND INSURANCE

Contractor shall procure, at its sole cost and expense, the insurance coverages set forth below with respect to Contractor's operations in completion of the Sandia Creek Drive bridge project.

Sufficiency of Insurance. Before the final execution of this contract, Contractor and any Subcontractors shall produce a standard Accord form Certificates of Insurance with Insurance Carriers acceptable to California Trout, The Certificates shall also confirm Additional Insured Provision, Subrogation Waiver Provision and forward actual endorsements from the Contractor's insurance carriers evidencing required coverage amendments.

Contractor insurance policy name as additional insured: California Trout, County of Orange, City of San Juan Capistrano, Southern California Regional Rail Authority, Orange County Transportation Association, The Hsiao Family, California Department of Fish and Wildlife, National Oceanic and Atmospheric Administration. Contractor will be required to present evidence to show, as a minimum, the amounts of insurance coverage indicated below:

Workers Compensation and Employer's Liability. The Contractor is required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's Liability Insurance with limits of liability of not less than (i) \$1,000,000 for bodily injury by accident, each accident, (ii) \$1,000,000 for bodily injury by disease, each employee, and (iii) \$2,000,000 aggregate liability for disease, except in States with exclusive or monopolistic funds that do not permit worker's compensation to be written by private carriers. The Workers' Compensation Insurance Policy must include a waiver of subrogation endorsement in favor of California Trout, County of Orange, City of San Juan Capistrano, Southern California Regional Rail Authority, Orange County Transportation Association, The Hsiao Family, California Department of Fish and Wildlife, National Oceanic and Atmospheric Administration.

(d) Commercial General Liability Insurance. A comprehensive form Commercial General Liability Insurance policy written on an occurrence basis, in form and substance reasonably acceptable to California Trout including, without limitation, an endorsement naming CalTrout ("Additional Insureds") as additional insureds, and an express clause or endorsement under which the insurer waives the right to use the defense of "governmental function" in any suits or actions that might be brought or made against any of the Additional Insureds or their respective officials, officers, directors, trustees, employees, and agents. The Commercial General Liability Insurance Policy must be written with a combined single limit of liability of not less than \$2,000,000 for each occurrence of bodily injury, fire and/or property damage and an annual aggregate of liability of not less than \$3,000,000 for bodily injury and/or property damage. An umbrella policy of \$10,000,000 will be negotiated before contract.

(e) Automobile Liability. The Contractor shall have automobile liability insurance written on a comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$1,000,000 per person and \$1,000,000 per occurrence for bodily injury and \$2,000,000 per occurrence for property damage or loss.

Fish Passage Structure Construction at Metrolink Railway Barrier on Trabuco Creek - Orange

(d) Contractors' Pollution Liability Insurance. Contractor shall purchase and maintain in force for the duration of the Agreement and for a period of two (2) years after completion of the project, insurance for pollution legal liability applicable to bodily injury; property damage, including natural resource damage, loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs, removal, storage, disposal, and or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims. Such insurance shall provide a coverage amount of not less than \$1,000,000 per occurrence.

(e) Failure to Provide Insurance. If Contractor fails to furnish and maintain insurance as required herein, Owner (California Trout) may cancel contract giving 10 days notice to comply. Except as otherwise expressly provided herein, all insurance policies required by the terms hereof shall be kept in full force and effect throughout the term of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the foregoing insurance requirements are in no way intended to, and will not in any manner, limit or qualify the liabilities and/or indemnities assumed by Contractor under or pursuant to this Agreement.

(f) Deductibles and Self-Insured Retentions. Contractor shall disclose the self-insured retentions and deductibles before beginning any of the Work called for by any term of this Contract. Any self-insured retention or deductible is subject to approval of CalTrout. During the period covered by this Contract, upon express written authorization of CalTrout, Contractor may increase such deductibles or self-insured retentions with respect to CalTrout, its officers, employees, agents, and volunteers. CalTrout may condition approval of an increase in deductible or self-insured retention levels upon a requirement that Contractor procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

Notice of Reduction in Coverage. In the event that any coverage required under the Contract is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to CalTrout at Contractor's earliest possible opportunity and in no case later than thirty (30) days prior to the change in coverage.

Remedies. In addition to any other remedies CalTrout may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CalTrout may, at its sole option:

Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Contract;

Order Contractor to stop work under this Contract or withhold any payment which becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof;

Terminate this Contract.

(g) General. Each policy of insurance referred to herein shall be issued by a company legally qualified to issue such insurance in the State of California. Each policy shall provide that it shall not be canceled or materially amended except after thirty (30) days' written notice to California Trout, and that it shall not be invalidated by any act or negligence of Contractor, or its partners, directors, officers, contractors, subcontractors, sponsors, vendors, volunteers, employees or agents.

(h) Indemnification. Contractor hereby releases and agrees to protect, indemnify, defend and hold California Trout, County of Orange, City of San Juan Capistrano, Southern California Regional Rail Authority, Orange County Transportation Association, The Hsiao Family, California Department of Fish and Wildlife, National Oceanic and Atmospheric Administration, their affiliates and all of

their respective officers, directors, shareholders, members, volunteers, agents and employees ("Indemnified Parties") harmless from and against all liabilities, claims, losses, costs, damages, expenses (including reasonable attorneys' fees and disbursements), investigations, actions, suits, judgments and demands arising out of or in any way relating to (i) the Services; (ii) the negligence or willful misconduct of Contractor or any of its subcontractors, vendors, employees, laborers, materialmen or other suppliers in performing the Services or otherwise, provided that Contractor shall not be liable for losses, costs, damages, liabilities, expenses, actions, suits, judgments or demands resulting from the gross negligence or willful misconduct of any Indemnified Parties; (iii) Contractor's breach of any warranty or representation contained herein. If any Indemnified Party is forced to defend itself or Contractor in a suit in any way relating to this Agreement or any Services, Contractor agrees to cooperate in such defense as reasonably requested by the Indemnified Party. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

-End of Part VIII -

PART IX. NONDISCRIMINATION ASSURANCES

CalTrout hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for award.

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as the "contractor") agrees as follows:

(1) Nondiscrimination: Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, Department of Transportation, Title 49, Code of Federal Regulations, Part 21.

(2) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by contractor for work to be performed under a Subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by contractor of contractor's obligations under this contract and the Regulations relative to the nondiscrimination on the grounds of race, color, sex, national origin, religion, age, or disability.

(3) Sanctions for Noncompliance: In the event of contractor's noncompliance with the nondiscrimination provisions of this contract, County shall impose such agreement sanctions as it or the State and/or FHWA may determine to be appropriate, including, but not limited to: withholding of payments to contractor under the contract until the contractor complies; and/or cancellation, termination or suspension of the contract, in whole or part.

Contractor shall take such action with respect to any subcontract or procurement as County or State may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that, in the event contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, contractor may request County to enter into such litigation to protect the interests of the County, and, in addition, contractor may request the United States to enter into such litigation to protect the interests of the United States.

-End of Part IX -