

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # \*B-9

Urgent

Routine

AGENDA DATE April 22, 2008

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Enter into Contracts with Leland Saylor and MicroEstimating for On-Call Estimating Services and to Enter into Contracts with Bureau Veritas North America Inc. and Interwest Consulting Group for On-Call Code Review Services - Chief Executive Office

STAFF RECOMMENDATIONS:

1. Approve to enter into contracts with Leland Saylor and MicroEstimating for On- Call Estimating Services.
2. Approve to enter into contracts with Bureau Veritas North America, Inc. and Interwest Consulting Group for On-Call Code Review services.
3. Authorize the Chief Executive Office to execute and sign agreements, purchase order and work order authorizations for professional on-call estimating and code review services for multiple capital projects.

FISCAL IMPACT:

An integral part of the planning and design as well as construction of any capital project is the professional services needed to support each project. Both code reviews, which are required by law, and estimating services are critically needed to support efforts for each capital project. Each individual capital project requires approval by the Board of Supervisors at each major milestone of its development and delivery, and no funds will be expended until the project budgets are adopted by the Board of Supervisors.

BOARD ACTION AS FOLLOWS:

No. 2008-284

On motion of Supervisor Grover, Seconded by Supervisor DeMartini  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

## DISCUSSION:

### CODE REVIEWS

Code reviews are required for each capital project. The code reviewer must review drawings, computations, and additional data for compliance with structural design requirements and the building mechanical, plumbing, electrical and health and safety codes. The code reviewer must:

- Ascertain whether the construction indicated and described is in accordance with the requirements of the technical codes, all pertinent laws, and ordinances,
- Determine if the plans conform to the required strengths, stresses, strains, loads, and stability required by law,
- Determine conformance with use and occupancy classification, general heights and areas, types of construction, fire protection systems means of egress, accessibility, structural design, soils and foundations, and masonry,
- Sign the plans when the plans meet applicable code requirements.

Over the past seven years Carl Mileof and Associates (CMA) provided professional services and performed code reviews for the County's Capital Projects. CMA had been selected thru a competitive process in the 2001-2002 Fiscal Year. CMA performed their work accurately and quickly and had a strong working relationship with the County's Capital Project team. However, due to the recent retirement of Mr. Mileof, the principles in the firm, CMA has no longer is available to provide code review services. This leaves the County's Capital Projects in need of a professional to provide Code Review services.

On December 4, 2007, the Board of Supervisors authorized staff to issue a Request for Proposals for Code Review Services. Staff advertised in newspapers and trade journals. Staff also wrote personal letters to all known code review firms in the Modesto area requesting their proposals.

On January 10, 2008, five (5) proposals were received. Staff reviewed the proposals and selected two firms that best fit the needs of Stanislaus County. The selected firms were Bureau Veritas North America, Inc. from Citrus Heights, Ca. and Interwest Consulting Group form Elk Grove, Ca. Staff recommends awarding On Call contracts to each of these firms.

### ESTIMATES

In the past the estimates of probable construction costs for Capital Projects have been done on an ad hoc basis for individual projects. Estimating firms were selected for each estimate required for each project. Capital Projects wishes to standardize the process and do a formal search for the most qualified firm. Capital Projects believes this will improve the quality of the estimates.

Approval to Enter into a Contracts With Leland Saylor and MicroEstimating for On-Call Estimating Services and to Enter into Contracts With Bureau Veritas North America Inc. and Interwest Consulting Group for On-Call Code Review Services

Page 3

Estimates of the probable cost of construction are an essential tool to direct and control the cost of capital projects. Estimates are often done at the programmatic level to develop Cost models and at the Schematic, Design Development and at the Construction Document Phases to determine if the design is within budget. Estimating Services also participate in Value Engineering Sessions and in Life Cycle Cost studies.

At this time, with the support of the Board, it may be prudent to seek professional service contracts for both the code review and estimating needs for future capital projects. This process will allow both a qualifications and proposal based review. The cost of such services will be contracted for in advance and this approach will ensure that such services are available if and when any of the individual projects reaches the stage of code review and/or estimating. On December 4, 2007, the Board of Supervisors authorized staff to issue a Request for Proposals for Estimating Services. Staff advertised in newspapers and trade journals. Staff also wrote personal letters to all known estimating firms in the Modesto area requesting their proposals.

Finally, on January 10, 2008, six (6) proposals were received. Staff reviewed the proposals and selected two firms that best fit the needs of Stanislaus County. The selected firms were MicroEstimating of San Ramon, Ca and Leland Saylor of San Francisco, Ca. Staff recommends awarding On Call contracts to each of these firms. No funds will be expended until the project budgets are adopted by the Board of Supervisors.

**POLICY ISSUES:**

Approval of this action supports the Board's priority of Efficient Delivery of Public Services.

**STAFFING IMPACT:**

Current Capital Projects staff will supervise the contracts for On Call Code Review and Estimating firms. There is no additional staffing impact.

Stanislaus County Capital Projects  
825 12<sup>th</sup> Street, Modesto, CA 95354  
Phone: (209) 525-4380 FAX: (209) 525-4385

BOARD OF SUPERVISORS

JUN 16 P 2 53 **TRANSMITTAL**

**TO:** Leland Saylor & Associates, Inc.  
425 Market Street, 22 Floor  
San Francisco, CA 94104

**SUBJECT:** On Call Estimating Services

**DATE:** 6/16/08

We are sending you \_\_\_ *attached* \_\_\_ *under separate cover* the following material:

—	Shop Drawings	—	Change Order	—	Specifications
—	Copy of Letter	—	Plans	—	Computer Printout
—	Prints	—	Samples	—	Updates

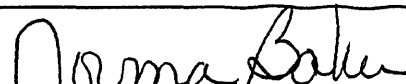
COPIES	DATE	DESCRIPTION
1		Fully executed contract for professional services relating to on call contract for estimating services.

**REMARKS:**

*Note to Board: This agreement was approved by the Board of April 22, 2008, Item B-9.*

**COPIES:** Patricia Hill Thomas  
Lisa Sandoval, Auditor  
Liz King, BOS  
File X 2.1.1 (1411)  
File X 5.6.11.1

**SIGNED:**

  
Norma Baker

**AGREEMENT  
FOR  
ON CALL ESTIMATING SERVICES**

This Agreement is made and entered into by and between the **County of Stanislaus** ("County") and **Leland Saylor & Associates, Inc.**, ("Consultant"), on **April 22, 2008** ("Agreement").

**INTRODUCTION**

WHEREAS, the County has a need for On Call Estimating Services for the County's capital projects; and

WHEREAS, Consultant is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

- 1 SCOPE OF WORK. The Consultant shall provide to the County On Call Estimating services for the County's capital projects in accordance with the Scope of Work described in Exhibit A attached hereto and in accordance with work orders which are or will be attached hereto and incorporated herein by this reference ("Work Orders").
- 2 SCHEDULE. Services and work provided by the Consultant shall be performed in a timely manner in accordance with approved Work Orders and as directed by the County's Construction Manager.
- 3 TERM.
  - 3.1 The term of this Agreement shall be from the date of approval of this Agreement until December 31, 2011, unless this agreement is sooner terminated as set forth below.
  - 3.2 Should Consultant default in the performance of this Agreement or materially breach any of its provisions, or become insolvent, the County, at its option, may terminate this Agreement by giving 15 days notification to the other party, provided that Consultant does not cure the default during that period.
  - 3.3 The County may terminate this Agreement for its convenience upon 10 days prior written notice. Termination of this Agreement shall not affect the County's obligation to pay for all services actually performed by the Consultant in accordance with the terms of this Agreement.

- 3.4 County may terminate this Agreement at any time if any key personnel are no longer available to provide services under this Agreement, and if Consultant does not find a replacement satisfactory to County within 10 days.
- 4 OWNERSHIP OF RECORDS. All documents and drawings prepared or produced by the Consultant under this Agreement are the property of the County. The Consultant shall not be responsible for damage caused by subsequent changes to or uses of the plans or specifications, where subsequent changes or uses are not authorized or approved by the Consultant.
- 5 COMPLIANCE WITH LAWS AND REGULATIONS. The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and local laws, ordinances, regulations and resolutions. Consultant agrees to perform the services called for hereunder at a level consistent with the standards of practice observed by persons who hold themselves out as experts performing similar services at the time and in the location as the services hereunder.
- 6 USE OF SUBCONSULTANTS. If the consultant deems it appropriate to utilize the services of a subconsultant in connection with the performance of the services under this agreement, the consultant will so advise the County and seek the County's prior approval of such retention. Any subconsultant retained by the consultant will be the agent of the consultant, and not the County.
- 7 CONSIDERATION.
- 7.1 The Consultant shall be compensated on a negotiated amount for each Work Order. The Consultant shall not exceed the contract limit in each Work Order.
- 7.2 The compensation to be paid to the Consultant shall be for all labor, material, transportation, insurance, subcontractors and services required under this Agreement.
- 7.3 Except as expressly provided in this Agreement, the Consultant shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, the Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, insurance, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

- 7.4 The Consultant shall provide the County with a monthly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which the County shall pay within 30 days of the date each invoice is approved by the County. The statement shall generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, the balance due on the statement, and the balance of funds available under this contract, after subtracting amounts paid to date. All invoices for services provided shall be forwarded in the same manner and to the same person and address that is provided for service of notices herein.
- 7.5 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to the Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of the Consultant. The County has no responsibility or liability for payment of the Consultant's taxes or assessments.
- 7.6 Consultant shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide the services under this Agreement. The Consultant – not the County – has the sole responsibility for payment of the costs and expenses incurred by Consultant in providing and maintaining such items.
- 8 **REQUIRED LICENSES, CERTIFICATES AND PERMITS.** Any licenses, certificates or permits required by the federal, state, county or municipal governments for the Consultant to provide the services and work described in Exhibit A must be procured by the Consultant and be valid at the time the Consultant enters into this Agreement. Further, during the term of this Agreement, the Consultant must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by the Consultant at no expense to the County.
- 9 **INSURANCE.** The Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:
- 9.1 General Liability Insurance. General Liability Insurance with an additional insured endorsement naming the County, its Board, officers, employees and agents as additional insureds, with limits of no less than One Million Dollars (\$1 Million Dollars) combined single limit per occurrence for bodily injury including personal injury and property damage.

- 9.2 Automobile Liability Insurance. If the Consultant or the Consultant's officers, employees, agents, representatives or sub-consultants utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury and property damage with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.
- 9.3 Professional Liability Insurance. Professional errors and omissions (malpractice) liability insurance with limits of no less than One Million Dollars (\$1,000,000) aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant's work under this Agreement.
- 9.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement.
- 9.5 Deductibles. Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses.
- 9.6 Additional Insured Endorsement. The County, its officers, the Board, agents and employees shall be named as additional insureds by separate endorsement on the Consultant's general liability and automobile insurance policy.
- 9.7 Waiver of Right of Subrogation. For Workers' Compensation insurance, the insurance carrier shall waive all rights of subrogation against the County, its Board, officers, agents and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement.
- 9.8 Consultant's Insurance is Primary. The Consultant's insurance coverage shall be primary insurance regarding the County and County's officers, the Board, officials and employees. Any insurance or self-insurance maintained by the County or County's



officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with the Consultant's insurance.

- 9.9 Notice to be Provided In the Event of Cancellation of Insurance. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days' prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.
- 9.10 Minimum Rating Requirements. Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-:VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. Lesser ratings must be approved in writing by the County prior to the commencement of work under this Agreement.
- 9.11 Subcontractors shall Maintain Same Levels of Insurance. The Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional named insureds under its insurance policies.
- 9.12 Certificates of Insurance. At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, the Consultant shall furnish County with certificates of insurance and with original endorsements effecting coverage required by this Agreement, including, without limitation, those effecting coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.
- 9.13 Miscellaneous. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, the Board, officials and employees. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

## 10 DEFENSE AND INDEMNIFICATION

- 10.1 The Consultant shall defend, indemnify and hold harmless the County and its Board, agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of or resulting from the negligent performance of this Agreement or any willful misconduct by the Consultant, or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify and hold harmless the County for the County's sole negligence, the County's active negligence, or the County's willful misconduct.
- 10.2 The Consultant's obligation to defend, indemnify and hold the County and its agents, Board, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for the Consultant to procure and maintain a policy of insurance.
- 10.3 To the extent permitted by law, the County shall defend, indemnify and hold harmless the Consultant from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the active negligence or wrongful acts of County.

## 11 STATUS OF ON CALL ESTIMATING

- 11.1 All acts of the Consultant and its officers, employees, agents, representatives, subconsultants and all others acting on behalf of the Consultant relating to the performance of this Agreement, shall be performed as an independent contractors.
- 11.2 At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subconsultants are, and shall represent and conduct themselves as independent contractors and not employees of County.
- 11.3 The Consultant shall determine the method, details and means of performing the work and services to be provided by the Consultant under this Agreement. The Consultant shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. The Consultant has control over the manner and means of performing the services under this Agreement.
- 11.4 If in the performance of this Agreement any third persons are utilized by the Consultant, such persons shall be entirely and exclusively under the direction,

supervision and control of the Consultant. All terms of retention including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Consultant.

- 11.5 Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in County.
- 11.6 It is understood by both Consultant and County that this Agreement shall not be construed or considered under any circumstances, to create an employer-employee relationship, partnership, or a joint venture. As an independent contractor, the Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- 11.7 So long as the County utilizes the services of Consultant, the County agrees not to solicit any employee of the Consultant for employment with the County.

## 12 RECORDS AND AUDIT.

- 12.1 Consultant shall maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.
- 12.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making an audit, evaluation, or examination during the period such records are to be maintained by the Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

- 13 **NONDISCRIMINATION.** During the performance of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition, marital status, age, political affiliation, sex, or sexual orientation. The Consultant and its officers, employees, agents, representatives or subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code, sections 12900, et

seq.) and the applicable regulations promulgated there under in the California Code of Regulations. The Consultant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto and all administrative rules and regulations issued pursuant to said act. The Consultant further agrees to abide by the County's nondiscrimination policy.

- 14 ASSIGNMENT. This is a personal services. This agreement for the services of the Consultant. County has relied upon the skills, knowledge, experience and training of the Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. The Consultant shall not assign or subcontract this Agreement without the express written consent of County. Further, the Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County. The County shall not assign its rights under this agreement without the express written consent of Consultant, such consent shall not be unreasonably upheld.
- 15 WAIVER OF DEFAULT. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.
- 16 NOTICE. Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which the Consultant or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus Chief Executive Office  
Attention: Patricia Hill Thomas  
1010 10<sup>th</sup> Street, Suite 6800  
Modesto, CA 95354  
Phone: 209.525.6333  
Fax: 209.525.4033

To Consultant: Leland Saylor & Associates, Inc.  
595 Market Street, Suite 400  
San Francisco, CA 94105  
Phone: 415.291.3200  
Fax: 415.291.3201

- 17 SEVERABILITY. If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in

contravention of any federal, state or County statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

- 18 **AMENDMENT.** This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.
- 19 **INTEGRATION.** This Agreement is an integrated agreement and constitutes the entire arrangement agreed to by the parties. This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.
- 20 **CONSTRUCTION.** Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.
- 21 **GOVERNING LAW AND VENUE.** This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.
- 22 **CONFLICT OF INTEREST.** Consultant represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Consultant represents to and agrees with County that Consultant has no present, and will have no future conflict of interest between providing County services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity which has any interest adverse or potentially adverse to County, as determined in the reasonable judgment of County.
- 23 **Confidentiality.** Any information, whether proprietary or not, made known to or discovered by Consultant during the performance of or in connection with this Agreement for County, will be kept confidential and not be disclosed to any other person. Consultant will

immediately notify County in writing if it is requested to disclose any information made known to or discovered by during the performance of or in connection with this Agreement. These conflict of interest, confidentiality and future service provisions and limitations shall remain fully effective indefinitely after termination of services to County hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the day and year first hereinabove written.

CONSULTANT  
Leland Saylor & Associates, Inc.

THE COUNTY OF STANISLAUS

By: Leland Saylor  
*pres*

Patricia Hill Thomas  
Patricia Hill Thomas  
Stanislaus County  
Chief Operations Officer /  
Assistant Executive Officer  
1010 10<sup>th</sup> Street, Suite 6800  
Modesto, CA 95354

Telephone: 415-291-3200

Fax: 415-291-3201

Approved as to form:

John P. Doering  
John P. Doering  
County Counsel

## **EXHIBIT A**

### **SCOPE OF WORK**

The actual services to be performed will be determined by Capital Projects staff. Scope of work shall include but not limited to the following areas:

- Estimate Probable Construction Cost at various stages of planning including but not limited to Programmatic, Schematic, Design Development, and Construction Documents phase of design.
- Estimate Probable Cost of Change Orders.
- Participate in Value Engineering Sessions
- Participate in Life Cycle Cost Reviews
- Contractor shall provide all necessary equipment and tools to perform the services.
- Provide your own workspace, office and office equipment.





**COST ESTIMATING  
HOURLY BILLING RATES**

**January 1, 2008**

Principal (Lee Saylor)	\$200.00
Senior Project Manager	\$162.00
Senior Estimator with 21+ years experience	\$145.00
Senior Estimator with 11 to 20 years experience	\$135.00
Estimator with 6 to 10 years experience	\$115.00
Junior Estimator with 2 to 5 years experience	\$90.00
Clerical Staff	\$65.00

**Other Costs**

Reimbursable (lodging, travel, reproduction, Mileage @ \$.48/mile, per diem, etc.)	Cost plus 15%	Cost plus 15%
Consultants		Cost plus 10%

**WORK AUTHORIZATION FOR ON CALL ESTIMATING SERVICES**

No. 1

- 1 This Work Authorization is entered into as of [\_\_\_\_\_], in accordance with the terms and conditions of that agreement between Stanislaus County and Leland Saylor & Associates, Inc. dated [\_\_\_\_\_].
- 2 Description of Services: Provide On Call Estimating Services for the [Name of the Project]
- 3 Period of Performance: [Starting to Date to Completion Date], as directed by the County's Construction Manager.
- 4 NOT TO EXCEED: \$[\_\_\_\_,\_\_\_\_.]
- 5 Funding Source(s): [Oracle Project Name, Fund, And Org]
- 6 Board of Supervisors Approval Date: [\_\_\_\_\_]; Board Agenda Item: [\_\_\_\_\_].

Dated: [\_\_\_\_\_]

\_\_\_\_\_

Stanislaus County

\_\_\_\_\_

Leland Saylor & Associates, Inc.

Stanislaus County Capital Projects  
825 12<sup>th</sup> Street, Modesto, CA 95354  
Phone: (209) 525-4380 FAX: (209) 525-4385

**TRANSMITTAL**

**TO:** Henry Tooryani  
MicroEstimating, Inc.  
2603 Camino Ramon, Suite 200  
Bishop Ranch 3  
San Ramon, California 94583

**SUBJECT:** On Call Estimating Services

**DATE:** 4/28/08

We are sending you \_\_\_ *attached* \_\_\_ *under separate cover* the following material:

- |                  |                |                     |
|------------------|----------------|---------------------|
| — Shop Drawings  | — Change Order | — Specifications    |
| — Copy of Letter | — Plans        | — Computer Printout |
| — Prints         | — Samples      | — Updates           |

COPIES	DATE	DESCRIPTION
1		Fully executed contract for professional services relating to on call contract for estimating services.

**REMARKS:**

80 / RD OF SUPERVISORS  
2008 APR 28 P 4: 58

*Note to Board: This agreement was approved by the Board of April 22, 2008, Item B-9.*

**COPIES:** Patricia Hill Thomas  
Lisa Sandoval, Auditor  
Liz King, BOS  
File X 2.1.1 (1408)  
File X 5.6.11.2

**SIGNED:**

*Norma Baker*  
Norma Baker

**AGREEMENT  
FOR  
ON CALL ESTIMATING SERVICES**

This Agreement is made and entered into by and between the **County of Stanislaus** ("County") and MicroEstimating, Inc. ("Consultant"), on April 22, 2008 ("Agreement").

**INTRODUCTION**

WHEREAS, the County has a need for On Call Estimating Services for the County's Capital Projects; and

WHEREAS, Consultant is specially trained, experienced and competent to perform and has agreed to provide such services;

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- 3 TERM.
  - 3.1 The term of this Agreement shall be from the date of approval of this Agreement until December 31, 2011 unless this agreement is sooner terminated as set forth below.
  - 3.2 Should Consultant default in the performance of this Agreement or materially breach any of its provisions, or become insolvent, the County, at its option, may terminate this Agreement by giving 15 days notification to the other party, provided that Consultant does not cure the default during that period.
  - 3.3 The County may terminate this Agreement for its convenience upon 10 days prior written notice. Termination of this Agreement shall not affect the County's

obligation to pay for all services actually performed by the Consultant in accordance with the terms of this Agreement.

3.4 County may terminate this Agreement at any time if any key personnel are no longer available to provide services under this Agreement, and if Consultant does not find a replacement satisfactory to County within 10 days.

4 OWNERSHIP OF RECORDS. All documents and drawings prepared or produced by the Consultant under this Agreement are the property of the County. The Consultant shall not be responsible for damage caused by subsequent changes to or uses of the plans or specifications, where subsequent changes or uses are not authorized or approved by the Consultant.

5 COMPLIANCE WITH LAWS AND REGULATIONS. The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and local laws, ordinances, regulations and resolutions. Consultant agrees to perform the services called for hereunder at a level consistent with the standards of practice observed by persons who hold themselves out as experts performing similar services at the time and in the location as the services hereunder.

6 USE OF SUBCONSULTANTS. If the consultant deems it appropriate to utilize the services of a subconsultant in connection with the performance of the services under this agreement, the consultant will so advise the County and seek the County's prior approval of such retention. Any subconsultant retained by the consultant will be the agent of the consultant, and not the County.

7 CONSIDERATION.

7.1 The Consultant shall be compensated on a negotiated amount for each Work Order. The Consultant shall not exceed the contract limit in each Work Order.

7.2 The compensation to be paid to the Consultant shall be for all labor, material, transportation, insurance, subcontractors and services required under this Agreement.

7.3 Except as expressly provided in this Agreement, the Consultant shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, the Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, insurance, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

- 7.4 The Consultant shall provide the County with a monthly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which the County shall pay within 30 days of the date each invoice is approved by the County. The statement shall generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, the balance due on the statement, and the balance of funds available under this contract, after subtracting amounts paid to date. All invoices for services provided shall be forwarded in the same manner and to the same person and address that is provided for service of notices herein.
- 7.5 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to the Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of the Consultant. The County has no responsibility or liability for payment of the Consultant's taxes or assessments.
- 7.6 Consultant shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide the services under this Agreement. The Consultant – not the County – has the sole responsibility for payment of the costs and expenses incurred by Consultant in providing and maintaining such items.
- 8 **REQUIRED LICENSES, CERTIFICATES AND PERMITS.** Any licenses, certificates or permits required by the federal, state, county or municipal governments for the Consultant to provide the services and work described in Exhibit A must be procured by the Consultant and be valid at the time the Consultant enters into this Agreement. Further, during the term of this Agreement, the Consultant must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by the Consultant at no expense to the County.
- 9 **INSURANCE.** The Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:
- 9.1 General Liability Insurance. General Liability Insurance with an additional insured endorsement naming the County, its Board, officers, employees and agents as additional insureds, with limits of no less than One Million Dollars (\$1 Million Dollars) combined single limit per occurrence for bodily injury including personal injury and property damage.

- 9.2 Automobile Liability Insurance. If the Consultant or the Consultant's officers, employees, agents, representatives or sub-consultants utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury and property damage with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.
- 9.3 Professional Liability Insurance. Professional errors and omissions (malpractice) liability insurance with limits of no less than One Million Dollars (\$1,000,000) aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant's work under this Agreement.
- 9.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement.
- 9.5 Deductibles. Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses.
- 9.6 Additional Insured Endorsement. The County, its officers, the Board, agents and employees shall be named as additional insureds by separate endorsement on the Consultant's general liability and automobile insurance policy.
- 9.7 Waiver of Right of Subrogation. For Workers' Compensation insurance, the insurance carrier shall waive all rights of subrogation against the County, its Board, officers, agents and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement.
- 9.8 Consultant's Insurance is Primary. The Consultant's insurance coverage shall be primary insurance regarding the County and County's officers, the Board, officials and employees. Any insurance or self-insurance maintained by the County or

County's officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with the Consultant's insurance.

- 9.9 Notice to be Provided In the Event of Cancellation of Insurance. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days' prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.
- 9.10 Minimum Rating Requirements. Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-:VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. Lesser ratings must be approved in writing by the County prior to the commencement of work under this Agreement.
- 9.11 Subcontractors shall Maintain Same Levels of Insurance. The Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional named insureds under its insurance policies.
- 9.12 Certificates of Insurance. At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, the Consultant shall furnish County with certificates of insurance and with original endorsements effecting coverage required by this Agreement, including, without limitation, those effecting coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.
- 9.13 Miscellaneous. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, the Board, officials and employees. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.



## 10 DEFENSE AND INDEMNIFICATION

- 10.1 The Consultant shall defend, indemnify and hold harmless the County and its Board, agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of or resulting from the negligent performance of this Agreement or any willful misconduct by the Consultant, or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify and hold harmless the County for the County's sole negligence, the County's active negligence, or the County's willful misconduct.
- 10.2 The Consultant's obligation to defend, indemnify and hold the County and its agents, Board, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for the Consultant to procure and maintain a policy of insurance.
- 10.3 To the extent permitted by law, the County shall defend, indemnify and hold harmless the Consultant from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the active negligence or wrongful acts of County.

## 11 STATUS OF ON CALL ESTIMATING

- 11.1 All acts of the Consultant and its officers, employees, agents, representatives, subconsultants and all others acting on behalf of the Consultant relating to the performance of this Agreement, shall be performed as an independent contractors.
- 11.2 At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subconsultants are, and shall represent and conduct themselves as independent contractors and not employees of County.
- 11.3 The Consultant shall determine the method, details and means of performing the work and services to be provided by the Consultant under this Agreement. The Consultant shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. The Consultant has control over the manner and means of performing the services under this Agreement.

- 11.4 If in the performance of this Agreement any third persons are utilized by the Consultant, such persons shall be entirely and exclusively under the direction, supervision and control of the Consultant. All terms of retention including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Consultant.
- 11.5 Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in County.
- 11.6 It is understood by both Consultant and County that this Agreement shall not be construed or considered under any circumstances, to create an employer-employee relationship, partnership, or a joint venture. As an independent contractor, the Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- 11.7 So long as the County utilizes the services of Consultant, the County agrees not to solicit any employee of the Consultant for employment with the County.

## 12 RECORDS AND AUDIT.

- 12.1 Consultant shall maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.
- 12.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making an audit, evaluation, or examination during the period such records are to be maintained by the Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

- 13 **NONDISCRIMINATION.** During the performance of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition, marital status, age, political affiliation, sex or sexual orientation. The

Consultant and its officers, employees, agents, representatives or subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code, sections 12900, et seq.) and the applicable regulations promulgated there under in the California Code of Regulations. The Consultant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto and all administrative rules and regulations issued pursuant to said act. The Consultant further agrees to abide by the County's nondiscrimination policy.

14 ASSIGNMENT. This is a personal services. This agreement for the services of the Consultant. County has relied upon the skills, knowledge, experience and training of the Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. The Consultant shall not assign or subcontract this Agreement without the express written consent of County. Further, the Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County. The County shall not assign its rights under this agreement without the express written consent of Consultant, such consent shall not be unreasonably upheld.

15 WAIVER OF DEFAULT. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

16 NOTICE. Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which the Consultant or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus Chief Executive Office  
Attention: Patricia Hill Thomas  
1010 10<sup>th</sup> Street, Suite 6800  
Modesto, CA 95354  
Phone: 209.525.6333  
Fax: 209.525.4033

To Consultant: MicroEstimating, Inc.  
2603 Camino Ramon, Suite 200  
Bishop Ranch 3  
San Ramon, CA 94583  
Phone: 925.242.2067  
Fax: 925.242.2717

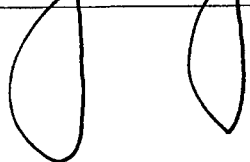
- 17 SEVERABILITY. If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or County statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.
- 18 AMENDMENT. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.
- 19 INTEGRATION. This Agreement is an integrated agreement and constitutes the entire arrangement agreed to by the parties. This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.
- 20 CONSTRUCTION. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.
- 21 GOVERNING LAW AND VENUE. This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.
- 22 CONFLICT OF INTEREST. Consultant represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Consultant represents to and agrees with County that Consultant has no present, and will have no future conflict of interest between providing County services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity which has any interest adverse or potentially adverse to County, as determined in the reasonable judgment of County.

23 Confidentiality. Any information, whether proprietary or not, made known to or discovered by Consultant during the performance of or in connection with this Agreement for County, will be kept confidential and not be disclosed to any other person. Consultant will immediately notify County in writing if it is requested to disclose any information made known to or discovered by during the performance of or in connection with this Agreement. These conflict of interest, confidentiality and future service provisions and limitations shall remain fully effective indefinitely after termination of services to County hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the day and year first hereinabove written.

CONSULTANT  
MicroEstimating, Inc.

THE COUNTY OF STANISLAUS

Henry Touyama, President  
By: 

Patricia Hill Thomas  
Patricia Hill Thomas  
Assistant Executive Officer  
Chief Operating Officer

Telephone: (925) 242-2067

Approved as to form:

Fax: (925) 242-2717

John P. Doering  
John P. Doering  
County Counsel

## **EXHIBIT A**

### **SCOPE OF WORK**

The actual services to be performed will be determined by Capital Projects staff. Scope of work shall include but not limited to the following areas:

- Estimate Probable Construction Cost at various stages of planning including but not limited to Programmatic, Schematic, Design Development, and Construction Documents phase of design.
- Estimate Probable Cost of Change Orders.
- Participate in Value Engineering Sessions
- Participate in Life Cycle Cost Reviews
- Consultant shall provide all necessary equipment and tools to perform the services.
- Provide your own workspace, office and office equipment.

Exhibit B

**Proposal**

**5.2.1 Typical Rates**

MicroEstimating Inc. is pleased to provide Stanislaus County with its rates for our estimating and clerical staff. These rates apply to our employees and those independent consultants that we work with routinely.

<b>Personnel Category</b>	<b>Hourly Rate</b>
Principal	\$135
Senior Project Manager	\$130
Senior Estimator – 21 plus years	\$125
Senior Estimator – 11 to 20 years	\$115
Estimator – 6 to 10 years	\$110
Clerical Staff	\$ 50

**5.2.5 Percentage Markup on Other Direct Costs**

MicroEstimating will mark up direct costs by 10%.





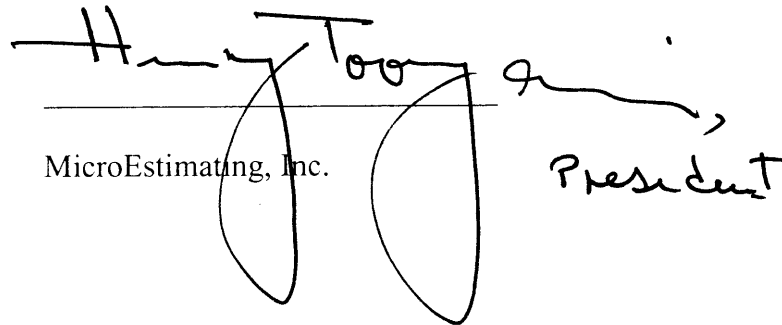
**WORK AUTHORIZATION FOR ON CALL ESTIMATING SERVICES**

No. 1

- 1 This Work Authorization is entered into as of [\_\_\_\_\_, \_\_\_\_\_], in accordance with the terms and conditions of that agreement between Stanislaus County and MicroEstimating, Inc. dated [\_\_\_\_\_, \_\_\_\_\_].
- 2 Description of Services: Provide On Call Estimating Services for the [Name of the Project]
- 3 Period of Performance: [Starting to Date, to Completion Date], as directed by the County's Construction Manager.
- 4 NOT TO EXCEED: \$[\_\_\_\_\_] (USD)
- 5 Funding Source(s): [Agency, District Name, Fund, and Org]
- 6 Board of Supervisors Approval Date: [\_\_\_\_\_, \_\_\_\_\_]; Board Agenda Item: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Stanislaus County

  
\_\_\_\_\_  
MicroEstimating, Inc. President

Stanislaus County Capital Projects  
825 12<sup>th</sup> Street, Modesto, CA 95354  
Phone: (209) 525-4380 FAX: (209) 525-4385

**TRANSMITTAL**

**TO: Henry Tooryani  
MicroEstimating, Inc.  
Bishop Ranch 3 Business Park  
2603 Camino Ramon, Suite 200  
San Ramon, California 94583**

BOARD OF SUPERVISORS  
DATE: 12/02/08  
2:57 PM

**SUBJECT: Animal Services Facility**

We are sending you \_\_\_ *attached* \_\_\_ *under separate cover* the following material

- |                  |                |                     |
|------------------|----------------|---------------------|
| — Shop Drawings  | — Change Order | — Specifications    |
| — Copy of Letter | — Plans        | — Computer Printout |
| — Prints         | — Samples      | — Updates           |

COPIES	DATE	DESCRIPTION
1		Fully executed contract for on call estimating services for the Animal Services facility.

**REMARKS:**

*Note to Board: This agreement was approved by the Board of Of Supervisors on March 4, 2008, Item B-5.*

COPIES: Don Phemister  
Patricia Hill Thomas  
Lisa Sandoval, Auditor  
Liz King, BOS  
File AR 2.1.1 (070)  
File AR 5.6.6.1  
File X 5.6.11.2

SIGNED:

  
Norma Baker

**WORK AUTHORIZATION NO 2  
FOR THE  
ANIMAL SERVICES FACILITY PROJECT**

- 1 This Work Authorization is entered into as of **November 18, 2008**, in accordance with the terms and conditions of that agreement between **Stanislaus County** and **MicroEstimating, Inc.** dated April 22, 2008.
- 2 Description of Services: Provide On Call **Estimating Services** for the **Animal Services Facility** Program.
- 3 Project Personnel:   Principal                   Henry Tooryani  
                              Senior Estimator       Bob Boben  
                              ~~Consultant~~               ~~Javier Silva~~       *[Signature]*
- 4 Period of Performance: November 18, 2008 to December 2, 2008, as directed by the County's Construction Manager.
- 5 NOT TO EXCEED: **\$10,000.00**
- 6 Funding Source(s): Animal Services Shelter, **2022/0061100/62400**
- 7 Board of Supervisors Approval Date: March 4, 2008; Board Agenda Item: B-5.

Dated: November 18, 2008

*[Signature]*  
\_\_\_\_\_

Stanislaus County

*[Signature]*  
\_\_\_\_\_

MicroEstimating, Inc.



11-21-08

Stanislaus County Capital Projects  
825 12<sup>th</sup> Street, Modesto, CA 95354  
Phone: (209) 525-4380 FAX: (209) 525-4385

BOARD OF SUPERVISORS

**TRANSMITTAL**

700 MAY 19 A 11:47

**TO: Michael Kashiwagi**  
**Interwest Consulting Group, Inc.**  
**1076 Lincoln Place**  
**Boulder, CO 80302**

**SUBJECT: On Call Estimating Services**

**DATE: 5/19/08**

We are sending you \_\_\_ *attached* \_\_\_ *under separate cover* the following material:

— Shop Drawings	— Change Order	— Specifications
— Copy of Letter	— Plans	— Computer Printout
— Prints	— Samples	— Updates

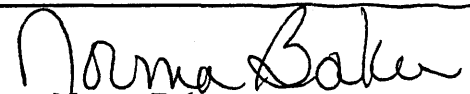
COPIES	DATE	DESCRIPTION
1		Fully executed contract for professional services relating to on call contract for estimating services.

**REMARKS:**

**Note to Board: This agreement was approved by the Board of April 22, 2008, Item B-9.**

COPIES: Patricia Hill Thomas  
Lisa Sandoval, Auditor  
Liz King, BOS  
File X 2.1.1 (1410)  
File X 5.6.10.2

SIGNED:

  
Norma Baker

**AGREEMENT  
FOR  
ON CALL CODE REVIEW SERVICES**

This Agreement is made and entered into by and between the **County of Stanislaus** ("County") and Interwest Consulting Group Inc. ("Consultant"), on April 22, 2008 ("Agreement").

**INTRODUCTION**

WHEREAS, the County has a need for On Call Code Review Services for the County's capital projects; and

WHEREAS, Consultant is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

- 1 SCOPE OF WORK. The Consultant shall provide to the County On Call Code Review services for the County's capital projects in accordance with the Scope of Work described in Exhibit A attached hereto and in accordance with work orders which are or will be attached hereto and incorporated herein by this reference ("Work Orders").
- 2 SCHEDULE. Services and work provided by the Consultant shall be performed in a timely manner in accordance with approved Work Orders and as directed by the County's Construction Manager.
- 3 TERM.
  - 3.1 The term of this Agreement shall be from the date of approval of this Agreement until December 31, 2011, unless this agreement is sooner terminated as set forth below.
  - 3.2 Should Consultant default in the performance of this Agreement or materially breach any of its provisions, or become insolvent, the County, at its option, may terminate this Agreement by giving 15 days notification to the other party, provided that Consultant does not cure the default during that period.
  - 3.3 The County may terminate this Agreement for its convenience upon 10 days prior written notice. Termination of this Agreement shall not affect the County's

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3.4 County may terminate this Agreement at any time if any key personnel are no longer available to provide services under this Agreement, and if Consultant does not find a replacement satisfactory to County within 10 days.

4 OWNERSHIP OF RECORDS. All documents and drawings prepared or produced by the Consultant under this Agreement are the property of the County. The Consultant shall not be responsible for damage caused by subsequent changes to or uses of the plans or specifications, where subsequent changes or uses are not authorized or approved by the Consultant.

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7 CONSIDERATION.

7.1 The Consultant shall be compensated on a negotiated amount for each Work Order. The Consultant shall not exceed the contract limit in each Work Order.

7.2 The compensation to be paid to the Consultant shall be for all labor, material, transportation, insurance, subcontractors and services required under this Agreement.

7.3 Except as expressly provided in this Agreement, the Consultant shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, the Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, insurance, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

- 7.4 The Consultant shall provide the County with a monthly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which the County shall pay within 30 days of the date each invoice is approved by the County. The statement shall generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, the balance due on the statement, and the balance of funds available under this contract, after subtracting amounts paid to date. All invoices for services provided shall be forwarded in the same manner and to the same person and address that is provided for service of notices herein.
- 7.5 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to the Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of the Consultant. The County has no responsibility or liability for payment of the Consultant's taxes or assessments.
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- 9 **INSURANCE.** The Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:
- 9.1 General Liability Insurance. General Liability Insurance with an additional insured endorsement naming the County, its Board, officers, employees and agents as additional insureds, with limits of no less than One Million Dollars (\$1 Million Dollars) combined single limit per occurrence for bodily injury including personal injury and property damage.

- 9.2 Automobile Liability Insurance. If the Consultant or the Consultant's officers, employees, agents, representatives or sub-consultants utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury and property damage with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.
- 9.3 Professional Liability Insurance. Professional errors and omissions (malpractice) liability insurance with limits of no less than One Million Dollars (\$1,000,000) aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant's work under this Agreement.
- 9.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement.
- 9.5 Deductibles. Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses.
- 9.6 Additional Insured Endorsement. The County, its officers, the Board, agents and employees shall be named as additional insureds by separate endorsement on the Consultant's general liability and automobile insurance policy.
- 9.7 Waiver of Right of Subrogation. For Workers' Compensation insurance, the insurance carrier shall waive all rights of subrogation against the County, its Board, officers, agents and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement.
- 9.8 Consultant's Insurance is Primary. The Consultant's insurance coverage shall be primary insurance regarding the County and County's officers, the Board, officials and employees. Any insurance or self-insurance maintained by the County or



County's officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with the Consultant's insurance.

- 9.9 Notice to be Provided In the Event of Cancellation of Insurance. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days' prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.
- 9.10 Minimum Rating Requirements. Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. Lesser ratings must be approved in writing by the County prior to the commencement of work under this Agreement.
- 9.11 Subcontractors shall Maintain Same Levels of Insurance. The Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional named insureds under its insurance policies.
- 9.12 Certificates of Insurance. At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, the Consultant shall furnish County with certificates of insurance and with original endorsements effecting coverage required by this Agreement, including, without limitation, those effecting coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.
- 9.13 Miscellaneous. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, the Board, officials and employees. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

## 10 DEFENSE AND INDEMNIFICATION

- 10.1 The Consultant shall defend, indemnify and hold harmless the County and its Board, agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of or resulting from the negligent performance of this Agreement or any willful misconduct by the Consultant, or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify and hold harmless the County for the County's sole negligence, the County's active negligence, or the County's willful misconduct.
- 10.2 The Consultant's obligation to defend, indemnify and hold the County and its agents, Board, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for the Consultant to procure and maintain a policy of insurance.
- 10.3 To the extent permitted by law, the County shall defend, indemnify and hold harmless the Consultant from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the active negligence or wrongful acts of County.

## 11 STATUS OF ON CALL CODE REVIEW

- 11.1 All acts of the Consultant and its officers, employees, agents, representatives, subconsultants and all others acting on behalf of the Consultant relating to the performance of this Agreement, shall be performed as an independent contractors.
- 11.2 At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subconsultants are, and shall represent and conduct themselves as independent contractors and not employees of County.
- 11.3 The Consultant shall determine the method, details and means of performing the work and services to be provided by the Consultant under this Agreement. The Consultant shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. The Consultant has control over the manner and means of performing the services under this Agreement.

- 11.4 If in the performance of this Agreement any third persons are utilized by the Consultant, such persons shall be entirely and exclusively under the direction, supervision and control of the Consultant. All terms of retention including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Consultant.
- 11.5 Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in County.
- 11.6 It is understood by both Consultant and County that this Agreement shall not be construed or considered under any circumstances, to create an employer-employee relationship, partnership, or a joint venture. As an independent contractor, the Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- 11.7 So long as the County utilizes the services of Consultant, the County agrees not to solicit any employee of the Consultant for employment with the County..

## 12 RECORDS AND AUDIT.

- 12.1 Consultant shall maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.
- 12.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making an audit, evaluation, or examination during the period such records are to be maintained by the Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

- 13 **NONDISCRIMINATION.** During the performance of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition, marital status, age, political affiliation, sex or sexual orientation. The

Consultant and its officers, employees, agents, representatives or subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code, sections 12900, et seq.) and the applicable regulations promulgated there under in the California Code of Regulations. The Consultant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto and all administrative rules and regulations issued pursuant to said act. The Consultant further agrees to abide by the County's nondiscrimination policy.

- 14 ASSIGNMENT. This is a personal services. This agreement for the services of the Consultant. County has relied upon the skills, knowledge, experience and training of the Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. The Consultant shall not assign or subcontract this Agreement without the express written consent of County. Further, the Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County. The County shall not assign its rights under this agreement without the express written consent of Consultant, such consent shall not be unreasonably upheld.
- 15 WAIVER OF DEFAULT. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.
- 16 NOTICE. Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which the Consultant or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus Chief Executive Office  
Attention: Patricia Hill Thomas  
1010 10<sup>th</sup> Street, Suite 6800  
Modesto, CA 95354  
Phone: 209.525.6333  
Fax: 209.525.4033


To Consultant: Interwest Consulting Group Inc.  
9300 W Stockton, Suite 105  
Elk Grove, CA 95758  
Phone: 916.683.3340  
Fax: 916.683.3375

- 17 SEVERABILITY. If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or County statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.
- 18 AMENDMENT. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.
- 19 INTEGRATION. This Agreement is an integrated agreement and constitutes the entire arrangement agreed to by the parties. This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.
- 20 CONSTRUCTION. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.
- 21 GOVERNING LAW AND VENUE. This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.
- 22 CONFLICT OF INTEREST. Consultant represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Consultant represents to and agrees with County that Consultant has no present, and will have no future conflict of interest between providing County services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity which has any interest adverse or potentially adverse to County, as determined in the reasonable judgment of County.

- 23 Confidentiality. Any information, whether proprietary or not, made known to or discovered by Consultant during the performance of or in connection with this Agreement for County, will be kept confidential and not be disclosed to any other person. Consultant will immediately notify County in writing if it is requested to disclose any information made known to or discovered by during the performance of or in connection with this Agreement. These conflict of interest, confidentiality and future service provisions and limitations shall remain fully effective indefinitely after termination of services to County hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the day and year first hereinabove written.

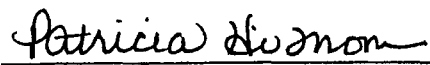
CONSULTANT  
Interwest Consulting Group Inc.

  
By: Michael Kashiwagi, PE  
Director of Municipal Serv.

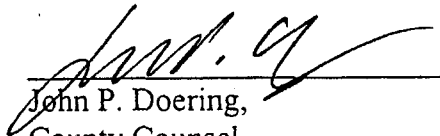
Telephone: 916.488.8840

Fax: 916.488.3375

THE COUNTY OF STANISLAUS

  
Patricia Hill Thomas  
Assistant Executive Officer  
Chief Operating Officer  
1010 10<sup>th</sup> Street, Suite 6800  
Modesto, CA 95354

Approved as to form:

  
John P. Doering,  
County Counsel

## EXHIBIT A

### SCOPE OF WORK

The actual services to be performed will be determined by Capital Projects staff. Scope of work shall include but not limited to the following areas:

- 1 Review selected capital projects, consisting of drawings, specifications, computations, and additional data for compliance with structural design requirements and the building, mechanical, plumbing, electrical and health and safety codes.
- 2 Ascertain whether the construction indicated and described is in accordance with the requirements of the technical codes, all other pertinent laws and ordinances.
- 3 Determine if plans confirm to the required strengths, stresses, strains, loads and stability as per the aforementioned laws.
- 4 Review shall also include: Use and Occupancy Classification, General Building Heights and Areas, Types of Construction, Fire Protection Systems, Means of Egress, Accessibility, Structural Design, Soils and Foundations and Masonry.
- 5 Contractor shall perform the initial plan review and submit comments within 15 business days of receipt to Capital Projects staff.
- 6 Sign the plans if the plans meet applicable code requirements.
- 7 Contractor shall provide all necessary equipment and tools to perform the services.
- 8 Provide your own workspace, office and office equipment.
- 9 It is the intent of this solicitation to create an independent contractor relationship between the County and the Contractor and confers no worker's compensation benefits, unemployment compensation benefits or other employment rights or benefits of any type to the Contractor from the County.



# Pricing Proposal

Given the nature of On-Call Service Agreements, Interwest Consulting Group is prepared to provide a variety of services and will tailor our staff and schedule to efficiently and effectively serve the project needs for the County.

For each requested service or project, we will prepare a Task Order including the specific scope of services, schedule, staffing plan, and estimated fee. The fee can be either on a time-and-materials basis with not-to-exceed amount or fixed fee. For time-and-material task orders, hourly rates shown below will apply. All fee estimates prepared by Interwest Consulting Group will include reimbursable expense, travel and overtime.

## Schedule of General Hourly Billing Rates

CLASSIFICATION	HOURLY BILLING RATE
Supervising Plan Review Engineer or Architect.....	140
Plan Review Engineer or Architect .....	130
Fire Plan Review Engineer .....	130
Grading Plan Plans Review Engineer.....	130
Senior Grading Plans Examiner.....	100
Senior Plans Examiner .....	100
Plans Examiner.....	90
Clerical Support.....	45

**Miscellaneous charges will include:**

Mileage.....	Current IRS Rate
Reimbursable Expenses .....	Time & Materials

*Reimbursable expenses include special equipment rentals, any public transportation costs, bridge tolls, parking, special shipping or printing requirements. Rates are typically reviewed yearly on July 1 and may be subject to revision unless under specific contract obligations.*

**WORK AUTHORIZATION FOR ON CALL CODE REVIEW SERVICES**

No. 1

- 1 This Work Authorization is entered into as of [.....], in accordance with the terms and conditions of that agreement between County and Interwest Consulting Group Inc. dated [.....].
- 2 Description of Services: Provide On Call Code Review Services for the [Name of the Project]
- 3 Period of Performance: [Starting to Date to Completion Date], as directed by the County's Construction Manager.
- 4 NOT TO EXCEED: \$ [.....]
- 5 Funding Source(s): [Origin, Project Name, Fund, And Org]
- 6 Board of Supervisors Approval Date: [.....]; Board Agenda Item: [.....].

Dated: [.....]

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Stanislaus County

---

Interwest Consulting Group Inc.

Stanislaus County Capital Projects  
825 12<sup>th</sup> Street, Modesto, CA 95354  
Phone: (209) 525-4380 FAX: (209) 525-4385

**TRANSMITTAL**

**TO: Bureau Veritas North America, Inc.**  
**5750 Sunrise Blvd., Suite 105**  
**Citrus Heights, CA 95610**

**SUBJECT: On Call Code Review Services**

**DATE: 6/18/08**

We are sending you      *attached*      *under separate cover* the following material:

- |   |                                       |  |
|---|---------------------------------------|--|
| <input type="checkbox"/> Shop Drawings  | <input type="checkbox"/> Change Order | <input type="checkbox"/> Specifications    |
| <input type="checkbox"/> Copy of Letter | <input type="checkbox"/> Plans        | <input type="checkbox"/> Computer Printout |
| <input type="checkbox"/> Prints         | <input type="checkbox"/> Samples      | <input type="checkbox"/> Updates           |

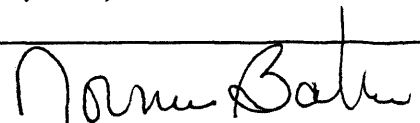
COPIES	DATE	DESCRIPTION
1		Fully executed contract for professional services for on call estimating services.

**REMARKS:**

*Note to Board: This agreement was approved by the Board of April 22, 2008, Item B-9.*

COPIES: Patricia Hill Thomas  
Lisa Sandoval, Auditor  
Liz King, BOS  
File X 2.1.1 (1412)  
File X 5.6.10.1

SIGNED:

  
Norma Baker

**AGREEMENT  
FOR  
ON CALL CODE REVIEW SERVICES**

This Agreement is made and entered into by and between the **County of Stanislaus** ("County") and Bureau Veritas North America, Inc. ("Consultant"), on April 22, 2008 ("Agreement").

**INTRODUCTION**

WHEREAS, the County has a need for On Call Code Review Services for the County's capital projects; and

WHEREAS, Consultant is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

- 1 SCOPE OF WORK. The Consultant shall provide to the County On Call Code Review services for the County's capital projects in accordance with the Scope of Work described in Exhibit A attached hereto and in accordance with work orders which are or will be attached hereto and incorporated herein by this reference ("Work Orders").
- 2 SCHEDULE. Services and work provided by the Consultant shall be performed in a timely manner in accordance with approved Work Orders and as directed by the County's Construction Manager.
- 3 TERM.
  - 3.1 The term of this Agreement shall be from the date of approval of this Agreement until December 31, 2011, unless this agreement is sooner terminated as set forth below.
  - 3.2 Should Consultant default in the performance of this Agreement or materially breach any of its provisions, or become insolvent, the County, at its option, may terminate this Agreement by giving 15 days notification to the other party, provided that Consultant does not cure the default during that period.
  - 3.3 The County may terminate this Agreement for its convenience upon 10 days prior written notice. Termination of this Agreement shall not affect the County's

obligation to pay for all services actually performed by the Consultant in accordance with the terms of this Agreement.

3.4 County may terminate this Agreement at any time if any key personnel are no longer available to provide services under this Agreement, and if Consultant does not find a replacement satisfactory to County within 10 days.

4 OWNERSHIP OF RECORDS. All documents and drawings prepared or produced by the Consultant under this Agreement are the property of the County. The Consultant shall not be responsible for damage caused by subsequent changes to or uses of the plans or specifications, where subsequent changes or uses are not authorized or approved by the Consultant.

5 COMPLIANCE WITH LAWS AND REGULATIONS. The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and local laws, ordinances, regulations and resolutions. Consultant agrees to perform the services called for hereunder at a level consistent with the standards of practice observed by persons who hold themselves out as experts performing similar services at the time and in the location as the services hereunder.

6 USE OF SUBCONSULTANTS. If the consultant deems it appropriate to utilize the services of a subconsultant in connection with the performance of the services under this agreement, the consultant will so advise the County and seek the County's prior approval of such retention. Any subconsultant retained by the consultant will be the agent of the consultant, and not the County.

7 CONSIDERATION.

7.1 The Consultant shall be compensated on a negotiated amount for each Work Order. The Consultant shall not exceed the contract limit in each Work Order.

7.2 The compensation to be paid to the Consultant shall be for all labor, material, transportation, insurance, subcontractors and services required under this Agreement.

7.3 Except as expressly provided in this Agreement, the Consultant shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, the Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, insurance, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

- 7.4 The Consultant shall provide the County with a monthly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which the County shall pay within 30 days of the date each invoice is approved by the County. The statement shall generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, the balance due on the statement, and the balance of funds available under this contract, after subtracting amounts paid to date. All invoices for services provided shall be forwarded in the same manner and to the same person and address that is provided for service of notices herein.
- 7.5 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to the Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of the Consultant. The County has no responsibility or liability for payment of the Consultant's taxes or assessments.
- 7.6 Consultant shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide the services under this Agreement. The Consultant – not the County – has the sole responsibility for payment of the costs and expenses incurred by Consultant in providing and maintaining such items.
- 8 **REQUIRED LICENSES, CERTIFICATES AND PERMITS.** Any licenses, certificates or permits required by the federal, state, county or municipal governments for the Consultant to provide the services and work described in Exhibit A must be procured by the Consultant and be valid at the time the Consultant enters into this Agreement. Further, during the term of this Agreement, the Consultant must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by the Consultant at no expense to the County.
- 9 **INSURANCE.** The Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:
- 9.1 General Liability Insurance. General Liability Insurance with an additional insured endorsement naming the County, its Board, officers, employees and agents as additional insureds, with limits of no less than One Million Dollars (\$1 Million Dollars) combined single limit per occurrence for bodily injury including personal injury and property damage.

- 9.2 Automobile Liability Insurance. If the Consultant or the Consultant's officers, employees, agents, representatives or sub-consultants utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury and property damage with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.
- 9.3 Professional Liability Insurance. Professional errors and omissions (malpractice) liability insurance with limits of no less than One Million Dollars (\$1,000,000) aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant's work under this Agreement.
- 9.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement.
- 9.5 Deductibles. Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses.
- 9.6 Additional Insured Endorsement. The County, its officers, the Board, agents and employees shall be named as additional insureds by separate endorsement on the Consultant's general liability and automobile insurance policy.
- 9.7 Waiver of Right of Subrogation. For Workers' Compensation insurance, the insurance carrier shall waive all rights of subrogation against the County, its Board, officers, agents and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement.
- 9.8 Consultant's Insurance is Primary. The Consultant's insurance coverage shall be primary insurance regarding the County and County's officers, the Board, officials and employees. Any insurance or self-insurance maintained by the County or

County's officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with the Consultant's insurance.

- 9.9 Notice to be Provided In the Event of Cancellation of Insurance. Each insurance policy required by this section shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.
- 9.10 Minimum Rating Requirements. Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-:VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. Lesser ratings must be approved in writing by the County prior to the commencement of work under this Agreement.
- 9.11 Subcontractors shall Maintain Same Levels of Insurance. The Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional named insureds under its insurance policies.
- 9.12 Certificates of Insurance. At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, the Consultant shall furnish County with certificates of insurance and with original endorsements effecting coverage required by this Agreement, including, without limitation, those effecting coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.
- 9.13 Miscellaneous. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, the Board, officials and employees. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.



## 10 DEFENSE AND INDEMNIFICATION

- 10.1 The Consultant shall defend, indemnify and hold harmless the County and its Board, agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of or resulting from the negligent performance of this Agreement or any willful misconduct by the Consultant, or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify and hold harmless the County for the County's sole negligence, the County's active negligence, or the County's willful misconduct.
- 10.2 The Consultant's obligation to defend, indemnify and hold the County and its agents, Board, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for the Consultant to procure and maintain a policy of insurance.
- 10.3 To the extent permitted by law, the County shall defend, indemnify and hold harmless the Consultant from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the active negligence or wrongful acts of County.

## 11 STATUS OF ON CALL CODE REVIEW

- 11.1 All acts of the Consultant and its officers, employees, agents, representatives, subconsultants and all others acting on behalf of the Consultant relating to the performance of this Agreement, shall be performed as an independent contractors.
- 11.2 At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subconsultants are, and shall represent and conduct themselves as independent contractors and not employees of County.
- 11.3 The Consultant shall determine the method, details and means of performing the work and services to be provided by the Consultant under this Agreement. The Consultant shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. The Consultant has control over the manner and means of performing the services under this Agreement.
- 11.4 If in the performance of this Agreement any third persons are utilized by the Consultant, such persons shall be entirely and exclusively under the direction,

supervision and control of the Consultant. All terms of retention including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Consultant.

- 11.5 Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in County.
- 11.6 It is understood by both Consultant and County that this Agreement shall not be construed or considered under any circumstances, to create an employer-employee relationship, partnership, or a joint venture. As an independent contractor, the Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- 11.7 So long as the County utilizes the services of Consultant, the County agrees not to solicit any employee of the Consultant for employment with the County..

## 12 RECORDS AND AUDIT.

- 12.1 Consultant shall maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.
- 12.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making an audit, evaluation, or examination during the period such records are to be maintained by the Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

- 13 NONDISCRIMINATION. During the performance of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition, marital status, age, political affiliation, sex, or sexual orientation. The Consultant and its officers, employees, agents, representatives or subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code, sections

12900, et seq.) and the applicable regulations promulgated there under in the California Code of Regulations. The Consultant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto and all administrative rules and regulations issued pursuant to said act. The Consultant further agrees to abide by the County's nondiscrimination policy.

- 14 **ASSIGNMENT.** This is a personal service. This agreement for the services of the Consultant. County has relied upon the skills, knowledge, experience and training of the Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. The Consultant shall not assign or subcontract this Agreement without the express written consent of County. Further, the Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County. The County shall not assign its rights under this agreement without the express written consent of Consultant, such consent shall not be unreasonably upheld.
- 15 **WAIVER OF DEFAULT.** Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.
- 16 **NOTICE.** Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which the Consultant or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus  
Chief Executive Office  
Attention: Patricia Hill Thomas  
1010 10<sup>th</sup> Street, Suite 6800  
Modesto, CA 95354  
Phone: 209.525.6333  
Fax: 209.525.4033

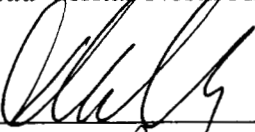
To Consultant: Bureau Veritas North America, Inc.  
5750 Sunrise Blvd., Suite 105  
Citrus Heights, CA 95610  
Phone: 916.725.4200  
Fax: 916.725.8242

- 17 SEVERABILITY. If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or County statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.
- 18 AMENDMENT. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.
- 19 INTEGRATION. This Agreement is an integrated agreement and constitutes the entire arrangement agreed to by the parties. This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.
- 20 CONSTRUCTION. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.
- 21 GOVERNING LAW AND VENUE. This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.
- 22 CONFLICT OF INTEREST. Consultant represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Consultant represents to and agrees with County that Consultant has no present, and will have no future conflict of interest between providing County services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity which has any interest adverse or potentially adverse to County, as determined in the reasonable judgment of County.

- 23 Confidentiality. Any information, whether proprietary or not, made known to or discovered by Consultant during the performance of or in connection with this Agreement for County, will be kept confidential and not be disclosed to any other person. Consultant will immediately notify County in writing if it is requested to disclose any information made known to or discovered by during the performance of or in connection with this Agreement. These conflict of interest, confidentiality and future service provisions and limitations shall remain fully effective indefinitely after termination of services to County hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the day and year first hereinabove written.

CONSULTANT  
Bureau Veritas North America, Inc.

  
By: Dennis Richardson, Vice President

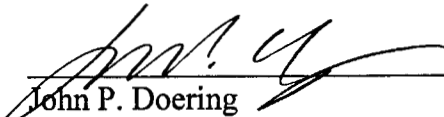
Telephone: 925-468-7400

Fax: 925-468-7413

THE COUNTY OF STANISLAUS

  
Patricia Hill Thomas  
Assistant Executive Officer  
Chief Operating Officer  
1010 10<sup>th</sup> Street, Suite 6800  
Modesto, CA 95354

Approved as to form:

  
John P. Doering  
County Counsel

## EXHIBIT A

### SCOPE OF WORK

The actual services to be performed will be determined by Capital Projects staff. Scope of work shall include but not limited to the following areas:

- 1 Review selected capital projects, consisting of drawings, specifications, computations, and additional data for compliance with structural design requirements and the building, mechanical, plumbing, electrical and health and safety codes.
- 2 Ascertain whether the construction indicated and described is in accordance with the requirements of the technical codes, all other pertinent laws and ordinances.
- 3 Determine if plans confirm to the required strengths, stresses, strains, loads and stability as per the aforementioned laws.
- 4 Review shall also include: Use and Occupancy Classification, General Building Heights and Areas, Types of Construction, Fire Protection Systems, Means of Egress, Accessibility, Structural Design, Soils and Foundations and Masonry.
- 5 Contractor shall perform the initial plan review and submit comments within 15 business days of receipt to Capital Projects staff.
- 6 Sign the plans if the plans meet applicable code requirements.
- 7 Contractor shall provide all necessary equipment and tools to perform the services.
- 8 Provide your own workspace, office and office equipment.
- 9 It is the intent of this solicitation to create an independent contractor relationship between the County and the Contractor and confers no worker's compensation benefits, unemployment compensation benefits or other employment rights or benefits of any type to the Contractor from the County.

Exhibit B  
**SCHEDULE OF RATES**

**Personnel Charges – Plan Review Services**

<u>Personnel Description</u>	<u>Hourly Billing Rate</u>
Principal-In-Charge	\$165
Director	\$150
Project Manager	\$150
Senior Plans Examiner - Engineer/Architect	\$140
Plans Examiner - Engineer/Architect	\$120
Senior Plans Examiner	\$110
Plans Examiner	\$90
Senior Building Inspector	\$95
Building Inspector	\$85
Supervising Plan Review Coordinator	\$65
Plan Review Coordinator	\$40

Note: A minimum fee of \$300 for plan review services will be charged, our fees include the initial review plus one recheck.

These rates are effective from January 1, 2008 through December 31, 2008. Overtime will be charged at 125% of the standard hourly rates. No overtime will be charged without prior authorization by client.

**Reimbursable Expenses**

Reimbursable expenses shall include, but will not be limited to the following:

Travel (for client requested meetings)	No Charge
Mileage	\$0.55 per mile
Domestic Travel Per Diem	\$45/day + Lodging
Outside Consultants	Cost +15%
Other Direct Project Expenses	Cost +15% including:
> Public transportation, charter, or rental	
> Printing, graphics, photography, and reproduction	
> Rental or purchase of special equipment and materials	
> Long distance telephone and special shipping	





## WORK AUTHORIZATION FOR ON CALL CODE REVIEW SERVICES

No. 1

1 This Work Authorization is entered into as of [\_\_\_\_\_], in accordance with the terms and conditions of that agreement between Stanislaus County and Bureau Veritas North America, Inc. dated [\_\_\_\_\_].

2 Description of Services: Provide On Call Code Review Services for the [Name of the Project]

3 Period of Performance: [Starting to Date to Completion Date], as directed by the County's Construction Manager.

4 Contractor will be compensated for work under this Work Authorization as indicated below:

(a) Contractor shall be compensated for work performed or services provided under the Agreement on a time and materials basis, based on the hours worked by the Contractor's employees or subcontractors at the hourly rates specified in a Schedule of Rates agreed to by the parties and attached to this Work Authorization. The specified hourly rates shall include direct salary costs, employee benefits, and overhead.

OR

(b) Contractor shall be compensated for work performed or services provided under the Agreement on a lump sum basis for each task as described in the Scope of Work, or in any proposal submitted by the Contractor, that is attached to and made part of the Agreement, by making periodic or progress payments upon completion of each task or item of work.

Regardless of the method of compensation indicated above, the total amount of compensation shall not exceed: \$[\_\_\_\_,\_\_\_\_.\_\_\_\_]

5 Funding Source(s): [Oracle Project Name, Fund, And Org]

6 Board of Supervisors Approval Date: [\_\_\_\_\_]; Board Agenda Item: [\_\_\_\_\_].

Dated: [\_\_\_\_\_]

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Stanislaus County

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Bureau Veritas North America, Inc.

Stanislaus Capital Projects  
825 12<sup>th</sup> Street, Modesto, CA 95354  
Phone: (209) 525-4380 Fax: (209) 525-4385

BOARD OF SUPERVISORS

**TRANSMITTAL**

2009 APR 21 P 3:46

**TO:** Mart Jaama  
**Cc:** Mike Kritscher  
595 Market Street, Suite 400  
San Francisco, CA 94105

**SUBJECT:** ANIMAL SERVICES SHELTER

**DATE:** 4/21/09

We are sending you X attached \_\_\_ under separate cover the following material:

<input type="checkbox"/> Shop Drawings	<input type="checkbox"/> Change Order	<input type="checkbox"/> Specifications
<input type="checkbox"/> Copy of Letter	<input type="checkbox"/> Plans	<input type="checkbox"/> Computer Printout
<input type="checkbox"/> Prints	<input type="checkbox"/> Samples	<input type="checkbox"/> Updates

COPIES	DATE	DESCRIPTION
1		Fully Executed Work Authorization 2


**REMARKS:**

Original for your files. Thank you!

**COPIES:**

Patricia Hill Thomas  
Auditor, (Original + Copy)  
Liz King, Board  
File AR 2.1.1(186)  
File AR 5.6.6.2  
File X 5.6.11.1

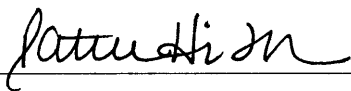
**SIGNED:**

  
Norma Baker

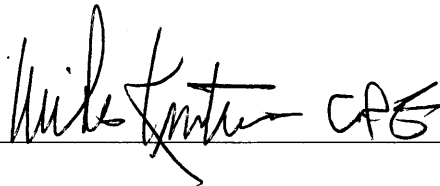
**WORK AUTHORIZATION NO. 2  
FOR ESTIMATING SERVICES  
ON ANIMAL SERVICES FACILITY**

1. This Work Authorization is entered into as of **March 24, 2009**, in accordance with the terms and conditions of that agreement between **Stanislaus County and Leland Saylor & Associates, Inc.** dated April 22, 2008.
2. Description of Services: Provide On Call Estimating Services for the **Animal Services Facility Schematic Plans**.
3. Period of Performance: **March 24, 2009 through June 30, 2009** as directed by the County's Construction Manager.
4. NOT TO EXCEED: Each phase must be authorized in writing by the Construction Manager prior to starting work. The Construction Manager reserves the right to authorize phases of the work authorization at the sole discretion of the County.
  - a) Concept Estimate .....\$4,320.00
  - b) Revised Concept Estimate (minor changes only) .....\$2,700.00
  - c) Value Engineering Session (10 hours)..... \$1,500.00
  - d) Value Engineering Estimating .....\$2,700.00
  - e) Presentation to The Project Team in Modesto (4 hrs).....\$600.00
5. Funding Source(s): Animal Services Facility  
2058 / 0061129 / 62400
6. Board of Supervisors Approval Date: February 10, 2009; Board Agenda Item: B-5.

Dated: March 25, 2009

  
\_\_\_\_\_

Stanislaus County

  
\_\_\_\_\_

Leland Saylor & Associates, Inc.



595 Market Street, Suite 400  
San Francisco, CA 94105  
TEL: 415-291-3200  
FAX: 415-291-3201  
www.lelandsaylor.com

March 20, 2009

Gino Colacchia  
825 12th Street  
Modesto, Ca 95354

**RE: Stanislaus County Animal Services Facility  
Modesto, CA  
LSA Quote #Q09-052**

Dear Mr. Colacchia:

We are pleased to submit our proposal for consulting services for the above-referenced project as follows:

1. **Project Description:** This project includes a new building including (administrative, clinic and quarantine office/support buildings) at the Stanislaus County Animal Shelter in Modesto, CA, with a project budget approx \$7 million. The construction scope includes new construction scheme involving both softscape and hardscape site work. This information will be derived from the March 16 plans, written information and phone conferences.

2. **Task Description:**

2.1	Concept Estimate .....	\$4,320.00
2.2	Revised Concept Estimate (minor changes only).....	\$2,700.00
2.3	Value Engineering Session (10 hours).....	\$1,500.00
2.4	Value Engineering Estimating .....	\$2,700.00
2.5	Presentation to the project team in Modesto (4 hours) .....	\$600.00

**TOTAL: .....\$11,820.00**

3. **Supplemental Consulting:** All work not specifically covered by the fixed fees above shall be billed on a time and materials basis in accordance with LSA's current schedule of fees and the terms of this agreement. **Additional work includes any work not included in this agreement which may be requested by agencies and/or owners, such as preparation for meetings or attendance of meetings, additional estimates not in scope, reconciliation of LSA's estimate(s) with other estimate(s), value engineering services and services related to litigation. Requests for such meetings, studies and additional estimates not in scope must be authorized in writing.**

**BUDGET .....Time and Materials**



**Leland Saylor**  
Associates  
A Certified DVBE

*Page 2 of 3*

*March 20, 2009*

*Quote #Q09-052*

*Stanislaus County Animal Services Facility Modesto, CA*

**Should the scope or budget vary significantly from that stated, LSA reserves the right to adjust its proposal accordingly.**

This quotation is subject to review of all documents prior to start of work. All documents must be in-house prior to start of work. If additional documentation is received after substantial completion of our estimate, incorporation of revised drawings will be billed on a Time & Materials basis. All estimates require a minimum of two weeks from notice to proceed to completion of estimate.

Please note that our estimators work from paper drawings and that electronic drawings will be sent out to be printed at \$15/page (one full size and one ½ size set). These charges may be avoided by sending us paper copies. Project documents may be sent to the attention of Mike Kritscher, Chief Estimator. Please contact Mike with all technical and scheduling questions.

Leland Saylor Associates shall perform all of its work in accordance with accepted estimating standards and practices.

Please sign and date this agreement to indicate your acceptance of this proposal and return it to this office. Terms and conditions appearing on the third page of this letter are a part of this agreement. This quotation is valid for a period of 60 days.

If you have any questions or wish further information, please call me.

Cordially yours,

**LELAND SAYLOR ASSOCIATES**

Accepted for: **Stanislaus County**

By: \_\_\_\_\_

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

MK/am

## CONTRACT CONDITIONS

The following Contract Conditions are hereby made a part of the preceding proposal.

### SCOPE OF THE AGREEMENT

Please refer to the attached proposal letter for Scope Definition.

### CONTRACT CONDITIONS

The terms and conditions of this proposal constitute the entire agreement between the parties. Any terms, provisions or conditions in the client's purchase orders, correspondence, or other forms which are inconsistent with the terms, provisions or conditions of LSA's documents are void, unenforceable, and not a part of the agreement. Retainer funds not exhausted are returned upon completion of services.

### LIMITATIONS ON LIABILITY

LSA makes no warranties, express or implied, that opinions, services, estimates, and schedules rendered by its employees or officers will serve the function required, as it does not have control of the end product.

Services performed by LSA under this agreement shall not constitute it an architect, engineer, construction contractor or building inspector, nor impose upon it any obligation to assume, render or perform on behalf of the owner, architect, or engineer any responsibilities/duties performed by any of the above professionals.

The estimate(s) performed by LSA represent LSA's best judgment as an estimating professional familiar with the construction industry. It is recognized, however, that neither LSA nor the Architect has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, LSA cannot and does not warrant or represent that bids or negotiated prices for the Project will not vary from the Owner's budget for the Project or from any estimate of the Cost of the Work or evaluation prepared or agreed to by LSA.

### INDEMNIFICATION

Client agrees to save and hold harmless LSA in a lawsuit or other proceeding relating to LSA services and obligations under this contract.

### TIME OF PERFORMANCE

LSA shall not be held liable for any delay or failure to perform the work described in the agreement if such delay or failure is caused directly or indirectly by fire, flood, explosion, other casualty, strike, labor disturbance, state of war, insurrection, riot, government regulations, either existent or future restrictions, appropriations or any other cause beyond the control of LSA. In the event the Client requests termination of the work prior to the completion of a report, the office of LSA reserves the right to complete such analysis and records as are necessary to the project file in order and, where considered by the office of LSA necessary to protect professional reputation to complete a report on the work performed to date. A termination charge to cover thereof in an amount not to exceed 30 percent of all charges incurred up to the date of work stoppage may be made at the discretion of the office of LSA.

### INVOICE AND PAYMENT POLICY

All projects are billed semi-monthly and payment is due on the tenth (10th) prox of the month following the month for which the services were invoiced. If payment is not received within thirty (30) days of the date of the invoice, the unpaid balance will be subject to a late payment fee, computed at the periodic rate of one and one-half percent (1 1/2%) per month.

Interest of 1.5% per month (but not exceeding the maximum rate allowable by law) will be payable on any amounts not paid within 30 days, payment thereafter to be applied first to the accrued interest and then to the principal unpaid amount PLUS a minimum of 1/2 hour each of Administrative time per month to cover the costs of monitoring the account. All attorneys' fees or other costs incurred in collection, any delinquent amount shall be paid by the Client. Overdue accounts, 5 days from date of statement will become delinquent ALL WORK SHALL BE STOPPED until all accrued charges, to date of delinquency, have been paid in full. Client agrees to pay all fees stipulated in the contract for the performance of the work, regardless of payment by owner. In the event owner does pay on account, all fees shall be paid within 2 weeks of payment by owner.

### ATTORNEY FEES

In the event any process of law is resorted to by LSA to collect any monies due hereunder, the Client agrees to pay all costs, interest and attorney fees incurred.

### COMPENSATION BILLING

#### (a) TIME AND CHARGES AND FIXED CONTRACTS

Labor and computer time will be charged in accordance with the Billing Rate Sheets that prevail at the time the work proceeds. LSA will adjust these rates each January 1 per CPI. Work performed in subsequent years to that in which the contract was signed will be billed at the adjusted rates. Overtime will be billed at regular hourly rates. Charges up to two (2) hours per weekday for travel outside of normal work hours or up to four (4) hours per day for weekends will be made.

#### (b) EXPENSES AND COSTS

Client agrees to pay all costs incurred by LSA in the performance of this contract. These costs shall include but not be limited to the following: materials, mileage, travel, graphics, document reproduction, consultants, long distance telephone calls, telex, fax, special handling and delivering, lodging per diem, etc. Such costs will be charged at the invoiced cost plus ten percent (10%). Per diem will be charged in accordance with the Rate Sheet and does not include the cost of the hotel, taxes, and transportation.

We reserve the right to suspend or terminate our services on any account not paid in accordance with the terms of this agreement.

Stanislaus County Capital Projects  
825 12<sup>th</sup> Street, Modesto, CA 95354  
Phone: (209) 525-4380 Fax: (209) 525-4385

BOARD OF SUPERVISORS **TRANSMITTAL**

2009 JUL 20 1 P 3: 06

**TO:** Leland Saylor Associates  
595 Market Street, Suite 400  
San Francisco, CA 94105

**SUBJECT:** ANIMAL SERVICES SHELTER

**DATE:** 7/20/09

We are sending you  *attached*  *under separate cover* the following material:

<input type="checkbox"/> Shop Drawings	<input type="checkbox"/> Change Order	<input checked="" type="checkbox"/> Specifications
<input type="checkbox"/> Copy of Letter	<input checked="" type="checkbox"/> Plans	<input type="checkbox"/> Computer Printout
<input type="checkbox"/> Prints	<input type="checkbox"/> Samples	<input type="checkbox"/> Updates

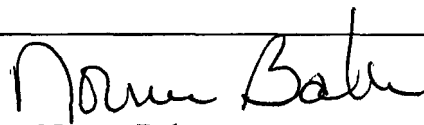
COPIES	DATE	DESCRIPTION
1		Fully-executed Work authorization No. 2A

**REMARKS:**

For your information.

**COPIES:** Tom Flores, Auditor  
Liz King, Clerk of the Board  
Patricia Hill Thomas  
File AR 2.1.1(318)  
File AR 5.6.6.2

**SIGNED:**

  
Norma Baker



**WORK AUTHORIZATION NO. 2A  
FOR ESTIMATING SERVICES  
ON ANIMAL SERVICES FACILITY**

1. This Work Authorization is entered into as of **July 1, 2009**, in accordance with the terms and conditions of that agreement between **Stanislaus County and Leland Saylor & Associates, Inc.** dated April 22, 2008.
2. Description of Services: Provide On Call Estimating Services for the **Animal Services Facility Bridging Documents**.
3. Period of Performance: **July 1, 2009 through December 31, 2009** as directed by the County's Construction Manager.
4. NOT TO EXCEED: **\$5,740.00** (See breakdown below.)

75% Bid Document Estimate.....\$4,360.00  
Cleanup 95% Bid Document Estimate (minor changes only).....\$1,380.00

\$11,820.00 (Work Authorization 2)  
    \$5,740.00 (Work Authorization 2A)  
TOTAL: \$17,560.00

5. Funding Source(s): Animal Services Facility  
2058 / 0061129 / 62400
6. Board of Supervisors Approval Date: February 10, 2009; Board Agenda Item: B-5.

Dated: July 2, 2009

Patricia D. Inoma

Stanislaus County



Leland Saylor & Associates, Inc.