

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

DEPT: Chief Executive Office

BOARD AGENDA # \*B-3

Urgent  Routine

AGENDA DATE June 30, 2015

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of Agreements for On-Call Code Review, On-Call Estimating and On-Call Civil Engineering Services to Support the County's Various Capital Projects

STAFF RECOMMENDATIONS:

1. Approve the selection of consultants for On-Call Code Review, On-Call Estimating and On-Call Civil Engineering Services for the County's Capital Projects efforts.
2. Authorize the Project Manager to finalize and execute agreements with 4Leaf, Inc. of Pleasanton, California and Bureau Veritas North America, Inc. of Sacramento, California for On-Call Code Review Services, Cumming Construction Management, Inc. of San Francisco, California and Sierra West Consulting Group, Inc. of Sacramento, California for On-Call Estimating Services and Associated Engineering Group, Inc. of Modesto, California and O'Dell Engineering, Inc. of Modesto, California for On-Call Civil Engineering Services.

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. Civil engineering services allow the County to parcel real property, provide engineering design and critical land surveying services. Code reviews, which are required by law, estimating services, and civil engineering services are critically needed to support efforts for each capital project.

(Continued-Page 2)

BOARD ACTION AS FOLLOWS:

No. 2015-297

On motion of Supervisor Chiesa, Seconded by Supervisor O'Brien

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, De Martini, and Chairman Withrow

Noes: Supervisors: None

Excused or Absent: Supervisors: Monteith

Abstaining: Supervisor: None

1) X Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST: Christine Ferraro  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

### **FISCAL IMPACT: Continued**

It is important to seek professional service contracts for On-Call Code Review, On-Call Estimating and On-Call Civil Engineering services needs for future capital projects. 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, estimating, and civil engineering. No funds will be expended until the project budgets are adopted by the Board of Supervisors.

### **DISCUSSION:**

On November 4, 2014, the Board of Supervisors authorized the Project Manager to issue Requests for Proposals for On-Call Code Review, On-Call Estimating, and On-Call Civil Engineering Services needed for the construction of County projects and facilities. The procurement process has since been finalized and is being presented to the Board of Supervisors for final selection and authorization for the Project Manager to enter into contracts on behalf of the Board.

#### Code Review

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.

#### Estimating

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 Construction Document phases to determine if the design is within budget. Estimating Services consultants also participate in Value Engineering (VE) Sessions and in Life Cycle Cost studies. Independent cost estimating at various phases of each project are a key factor in our success of delivering capital projects under budget.

### Civil Engineering

Civil Engineers assist the County with project essential design and construction services including land surveying, construction surveying, transportation engineering and utility and infrastructure design development. Civil Engineers are required to have a pertinent understanding of land use laws and regulations which assist the County in the development of its County owned real property for new capital facilities construction.

### Recommended Actions

Each individual capital project requires approval by the Board of Supervisors at the each major milestone of its development and delivery. Staff recommends the Board of Supervisors approve the following three actions to seek professional services contracts for On-Call Code Review, On-Call Estimating and On-Call Civil Engineering Services:

***Approval of agreements with 4Leaf, Inc. of Pleasanton, California and Bureau Veritas of Sacramento, California for On-Call Code Review Services.***

On February 7, 2012, the Board of Supervisors authorized the Project Manager to sign a contract with 4Leaf, Inc. of Pleasanton, California for on-call code review services. The contract was effective through December 31, 2014, with specific authority granted by the Board of Supervisors on November 4, 2014 to extend services through the plan check process required for the AB900 Phase II Public Safety Center Expansion Project, Projects One and Three design packages currently in the final approval process.

On January 22, 2015, staff issued the Request for Qualifications and Proposals (RFQ/P) for On-Call Code Review. On February 19, 2015, two proposals were received from the following firms:

- Bureau Veritas North America, Inc., of Sacramento, California; and,
- 4Leaf, Inc. of Pleasanton, California.

Each Proposal was first evaluated on a comparative, competitive, qualification basis, based upon the RFQ/RFP's submittal requirements, including the experience, organization and qualifications of the firm and individuals proposed and the proposal pricing. Specific evaluation criteria included:

- The ability, capacity, and skill of the Respondent and its subconsultant to perform the Professional Services Agreement and perform the Services;
- The type of Services needed by the County in light of the nature of the project and budgetary issues;
- The ability of the Respondent to effectuate the Services within the time specified, without delay;
- The character, integrity, reputation, judgment, experience, and efficiency of the Respondent;

- The character, integrity, reputation, judgment, experience, and efficiency of the Proposer and its subconsultants;
- Whether the Proposer has satisfactorily performed similar Services on similar projects in occupied facilities;
- Billable Hourly Rates and Other Proposal pricing; and,
- Any other factor deemed to be relevant, in the County's sole discretion.

Following the extensive evaluation of each Proposal conducted by the County's Project Evaluation Team comprised of staff from Chief Executive Office Capital Projects Division, the ranking of the firms was established as follows:

Firm Name	Total Points	% out of 300 Points	Rank
4Leaf, Inc.	283	94.33%	1
Bureau Veritas North America, Inc.	226	75.33%	2

Based on the results of the evaluation and the needs of the County, the Project Manager recommends the selection of 4-Leaf, Inc. of Pleasanton, California, and Bureau Veritas North America, Inc. of Sacramento, California for On-Call Code Review Services. Both firms have an extensive local knowledge in the field of code review and this will ensure the plans and specifications and construction of the County's projects are in accordance with the requirements of the technical codes, all pertinent laws, and ordinances.

***Approval of agreement with Cumming Construction Management, Inc. of San Francisco, California and Sierra West Consulting Group, Inc. of Sacramento, California for On-Call Estimating Services.***

On February 7, 2012, the Board of Supervisors authorized the Project Manager to sign a contract with Sierra West Consulting Group, Inc. of Sacramento, California for On-Call Estimating Services. The contract was effective through December 31, 2014.

On January 22, 2015, staff issued the Request for Qualifications and Proposals (RFQ/P) for On-Call Estimating. On February 19, 2015, six proposals were received from the following firms:

- MicroEstimating, Inc. of San Francisco, California;
- Sierra West Consulting Group, Inc. of Sacramento, California;
- Silva Cost Consulting, Inc. of Sacramento, California;
- Cumming Construction Management, Inc. of San Francisco, California;
- TBD Consultants of San Francisco, California; and,

- Hill International of San Francisco, California.

Each Proposal was first evaluated on a comparative, competitive, qualification basis, based upon the RFQ/RFP's submittal requirements, including the experience, organization and qualifications of the firm and individuals proposed and the proposal pricing. Specific evaluation criteria included:

- The ability, capacity, and skill of the Respondent and its subconsultant to perform the Professional Services Agreement and perform the Services;
- The type of Services needed by the County in light of the nature of the project and budgetary issues;
- The ability of the Respondent to effectuate the Services within the time specified, without delay;
- The character, integrity, reputation, judgment, experience, and efficiency of the Respondent;
- The character, integrity, reputation, judgment, experience, and efficiency of the Proposer and its subconsultants;
- Whether the Proposer has satisfactorily performed similar Services on similar projects in occupied facilities;
- Billable Hourly Rates and Other Proposal pricing; and,
- Any other factor deemed to be relevant, in the County's sole discretion.

Following the extensive evaluation of each Proposal conducted by the County's Project Evaluation Team comprised of staff from Chief Executive Office Capital Projects Division, the ranking of the firms was established as follows:

Firm Name	Total Points	% out of 300 Points	Rank
Sierra West Consulting Group, Inc.	271	90.33%	1
MicroEstimating, Inc.	268	89.33%	2
Cumming Construction Management, Inc.	258	86.00%	3
Hill International	246	82.00%	4
Silva Cost Consulting	231	77.00%	5
tbd consultants	190	63.33%	6

Following extensive evaluation of each Proposal, the Evaluation Committee recommended that four firms be invited to participate in Selection Interviews. The four firms advanced to the interview phase included Sierra West, MicroEstimating, Inc., Cumming Construction Management, Inc. and Hill International. Based on the Selection Team rankings, Cumming, ranked third during the paper evaluation, however, demonstrated competitive superiority during the Selection Interview and moved to the number two position in ranking overall. As a result, the Project Manager recommends the selection of Sierra West Consulting Group, Inc. of Sacramento, California and Cumming Construction Management, Inc. of San Francisco, California for On-Call Estimating Services. Contracting with both On-Call Estimating firms will allow the County to provide comparative cost estimate analyses when needed for capital projects, ensuring the Project Manager can direct and control the cost of construction.

***Approval of an agreement with Associated Engineering Group, Inc. of Modesto, California and O'Dell Engineering, Inc. of Modesto, California for On-Call Civil Engineering Services.***

On November 4, 2014, the Board of Supervisors authorized the Project Manager to seek proposals for professional On-Call Civil Engineering Services. On January 22, 2015, staff issued the Request for Qualifications and Proposals (RFQ/P) for On-Call Civil Engineering. On February 19, 2015, four proposals were received from the following firms:

- Associated Engineering Group, Inc. of Modesto, California;
- O'Dell Engineering, Inc. of Modesto, California;
- PSOMAS of Sacramento, California; and,
- Bellecci & Associates, Inc. of Pleasanton, California.

Each Proposal was first evaluated on a comparative, competitive, qualification basis, based upon the RFQ/RFP's submittal requirements, including the experience, organization and qualifications of the firm and individuals proposed and the proposal pricing. Specific evaluation criteria included:

- The ability, capacity, and skill of the Respondent and its subconsultant to perform the Professional Services Agreement and perform the Services;
- The type of Services needed by the County in light of the nature of the project and budgetary issues;
- The ability of the Respondent to effectuate the Services within the time specified, without delay;
- The character, integrity, reputation, judgment, experience, and efficiency of the Respondent;
- The character, integrity, reputation, judgment, experience, and efficiency of the Proposer and its subconsultants;
- Whether the Proposer has satisfactorily performed similar Services on similar projects in occupied facilities;
- Billable Hourly Rates and Other Proposal pricing; and,
- Any other factor deemed to be relevant, in the County's sole discretion.

Following the extensive evaluation of each Proposal conducted by the County's Project Evaluation Team comprised of staff from Chief Executive Office Capital Projects Division, the ranking of the firms was established as follows:

Firm Name	Total Points	% out of 300 Points	Rank
Associated Engineering Group, Inc.	284	94.67%	1
O'Dell Engineering, Inc.	272	90.67%	2
PSOMAS	261	87.00%	3
Bellecci & Associates	246	82.00%	4

Following extensive evaluation of each Proposal, the Evaluation Committee recommended that two firms be invited to participate in Selection Interviews. Based on the results of the interviews and the needs of the County, the Project Manager recommends the selection of Associated Engineering Group, Inc. of Modesto, California and O'Dell Engineering, Inc. of Modesto, California for On-Call Civil Engineering Services. Both firms have an extensive local knowledge in the field of civil engineering and land surveying and fit the needs of the County as outlined in the RFQ/P.

Schedule

On-Call Code Review, On-Call Estimating and On-Call Civil Engineering Services contracts approved by the Board of Supervisors will have an effective date until April 28, 2018. Approval of these related contracts will ensure the County can deliver its capital projects in a timely, cost effective manner while complying with the codes and regulations required during the various capital construction efforts and projects.

**POLICY ISSUES:**

Approval of this action supports the Board of Supervisors priority of Efficient Delivery of Public Services by contracting for services in advance, ensuring that such services are available when the individual projects reach the stage where these services are required.

**STAFFING IMPACTS:**

Existing Chief Executive Office Capital Projects staff will supervise the contracts for On-Call Code Review, On-Call Estimating and On-Call Civil Engineering Services. There is no additional staffing impact with the recommended actions.

**CONTACT PERSON:**

Patricia Hill Thomas, Chief Operations Officer. Telephone: 209-525-6333

# **On-Call Estimating Agreement**

Cumming Construction Management, Inc.



**PROFESSIONAL SERVICES AGREEMENT  
(ON CALL ESTIMATING SERVICES)**

This Professional Services Agreement is made and entered into by and between the **County of Stanislaus (County)** and **Cumming Construction Management, Inc., a California corporation (Consultant)**, on April 28, 2015 (**Agreement**).

**INTRODUCTION**

WHEREAS, County has a need for On Call Estimating Services for 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 SERVICES.** Consultant shall provide County with On Call Estimating services and work (**Services**) for County capital projects in accordance with the Scope of Services described in Exhibit A attached hereto and in accordance with work orders or authorizations which are or will be attached hereto and incorporated herein by this reference (**Work Orders**).
2. **SCHEDULE.** Services and work provided by Consultant shall be performed in a timely manner in accordance with approved Work Orders and as directed by County's Construction Manager.
3. **TERM.**
  - 3.1 The term of this Agreement shall be from the date of approval of this Agreement until the later of April 28, 2018 and completion of the last outstanding Work Order, unless 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, County, at its option, may terminate this Agreement by giving fifteen (15) days notification to Consultant, provided that Consultant does not cure the default during that period.
  - 3.3 County may terminate this Agreement for its convenience upon ten (10) days prior written notice. Termination of this Agreement shall not affect County's obligation to pay for all services actually performed by Consultant in accordance with the terms of this Agreement.
  - 3.4 County may terminate this Agreement at any time if any key personnel is no longer available to provide Services under this Agreement, and if Consultant does not find a replacement satisfactory to County within ten (10) days.
  - 3.5 All warranties, indemnities and guarantees shall survive expiration or termination of this Agreement.
4. **OWNERSHIP OF RECORDS.** All documents and drawings prepared or produced by Consultant under this Agreement are property of County. 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 Consultant.
5. **COMPLIANCE WITH LAWS AND REGULATIONS.** 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 Consultant deems it appropriate to utilize the services of a subconsultant in connection with performance of Services under this Agreement, Consultant will so advise County and seek County's prior approval of such retention. Any subconsultant retained by Consultant will be the agent of Consultant, and not County.

**7. FACILITIES AND EQUIPMENT**

**7.1** Consultant shall provide such office space, other workspace, supplies, office and other equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide all Services under this Agreement. Consultant – not County – has the sole responsibility for paying all costs and expenses incurred by Consultant in providing and maintaining such items.

**8. CONSIDERATION.**

**8.1** Consultant shall be compensated for Services performed under a Work Order, based on the Billing Rates Schedule (Agreement Exhibit B), as provided in each Work Order. County shall not be required to pay more than the maximum amount specified in any Work Order, regardless of Consultant's level of effort required to perform the Services.

**8.2** Compensation payable to Consultant under a Work Order shall be for all labor, material, transportation, insurance, subconsultants, services and work required under this Agreement and the Work Order. Except as otherwise expressly agreed by County, all Consultant costs, including benefits, overtime, travel and reimbursables.

**8.3** Rates on Billing Rate Schedule shall remain fixed throughout the term of this Agreement.

**8.4** Except as expressly provided in this Agreement or a Work Order, 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, without limitation, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to any compensation or benefits payable to County employees, including, without limitation, 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.

**8.5** Consultant shall provide County with a monthly statement, as Services warrant, of fees earned and costs incurred for Services provided during the billing period, which County shall pay within thirty (30) days of the date each statement is approved by 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 Agreement, after subtracting amounts paid to date. All statements 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.

**8.6** County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is Consultant's sole responsibility. County has no responsibility or liability for payment of Consultant's taxes or assessments.

**9. REQUIRED LICENSES, CERTIFICATES AND PERMITS.** Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the Services must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect, at no cost to County. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses and certificates, and business licenses.

**10. INSURANCE.** Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

**10.1 General Liability Insurance.** General Liability Insurance, with limits of no less than One Million Dollars (\$1,000,000) combined single limit per incident or occurrence for bodily injury

including personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

- 10.2 Automobile Liability Insurance.** If Consultant or its officers, employees, agents, representatives or subconsultants utilize a motor vehicle in performing any 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.
- 10.3 Professional Liability Insurance.** Professional errors and omissions (malpractice) liability insurance with limits of no less than Two Million Dollars (\$2,000,000) per claim and aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for at least two years following completion of Consultant's Services under this Agreement.
- 10.4 Workers' Compensation Insurance.** Workers' Compensation insurance as required by the California Labor Code. In signing this Agreement, Consultant certifies under Labor Code Section 1861 that Consultant is aware of the provisions of Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of Services under this Agreement.
- 10.5 Deductibles.** Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At County's option, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to 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.
- 10.6 Additional Insured Endorsement.** Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.
- 10.7 Waiver of Right of Subrogation.** Insurance carriers under Consultant's general liability, automobile insurance and Workers' Compensation insurance policies shall waive all rights of subrogation against the Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees.
- 10.8 Consultant's Insurance is Primary.** Consultant's insurance coverage shall be primary insurance regarding County and its officers, directors, agents, employees and volunteers. Any insurance or self-insurance maintained by County or its officers, directors, agents, employees and volunteers, shall be excess of and not contribute with Consultant's insurance.
- 10.9 Notice to be Provided If Insurance is Cancelled.** 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. Consultant shall promptly notify, or cause the insurance carrier to promptly notify, County, of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits.

- 10.10 Minimum Rating Requirements.** Insurance shall be placed with California admitted insurers (licensed to do business in California), and (except for Workers' Compensation) have a current rating by Best's Key Rating Guide of no less than A-VII.
- 10.11 Subconsultants shall Maintain Same Levels of Insurance.** Consultant shall require all of its subconsultants to maintain the same types and minimum amounts of insurance stated herein, or shall include all subconsultants as additional named insureds under its insurance policies.
- 10.12 Certificates of Insurance.** At least ten (10) days prior to the date Consultant begins performing its obligations under this Agreement, 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 Consultant's subconsultants. 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.
- 10.13 Miscellaneous.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to County or its officers, the Board, officials and employees. 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.

## **11. DEFENSE AND INDEMNIFICATION**

- 11.1** Consultant shall defend, indemnify and hold harmless County and its officers, directors, agents, employees and volunteers, 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 negligent performance of this Agreement, gross negligence or willful misconduct, by Consultant or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify or hold harmless County or other indemnitees for their sole negligence, active negligence, or gross negligence or willful misconduct.
- 11.2** Consultant's obligation to defend, indemnify and hold County and other indemnitees is not limited to or restricted by any requirement in this Agreement for Consultant to procure or maintain insurance.
- 11.3** Consultant shall include in all agreements with its subconsultants defense, indemnity and hold harmless provisions identical to the provisions in this section.

## **12. INDEPENDENT CONTRACTOR**

- 12.1** Consultant shall at all times be deemed an independent contractor wholly responsible for the manner in which it performs the Services, and fully liable for the acts and omissions of its employees, subconsultants and agents. Under no circumstances shall this Agreement or any Work Order be construed as creating an employment, agency, joint venture or partnership relationship between County and Consultant, and no such relationship shall be implied from performance of this Agreement. Terms in this Agreement (if any) referring to direction from County shall be construed as providing for direction as to policy and the result of Services only, and not as to means and methods by which such a result is obtained. Consultant shall pay all taxes (including California sales and use taxes) levied upon this Agreement, all Work Orders, or the Services and/or goods delivered pursuant hereto.
- 12.2** If in performing this Agreement Consultant utilizes any third persons, they shall be entirely and exclusively under Consultant's direction, supervision and control. Consultant shall determine all retention terms, including, without limitation, hours, wages, working conditions, discipline, hiring and discharging and any other employment term or legal requirement. Consultant shall indemnify and hold 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.

**12.3** 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.

**12.4** So long as County utilizes the services of Consultant, County agrees not to solicit any Consultant employee for employment with County.

### **13. RECORDS AND AUDIT.**

**13.1** Consultant shall maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four 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.

**13.2** Any authorized County representative shall have access to any such writings, documents and records for audit, evaluation, or examination during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the Services performed or being performed under this Agreement.

**13.3** The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred to County by this section. Such rights shall be specifically enforceable.

**14. NONDISCRIMINATION.** Consultant and its officers, employees, agents, representatives and subconsultants 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. Consultant and its officers, employees, agents, representatives and 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. 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. Consultant further agrees to abide by County's nondiscrimination policy.

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

**16. WAIVERS.** Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Agreement, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel compliance with any provision hereof. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by County and Consultant.

**17. NOTICES.** Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make, shall be in writing and provided by hand delivery, registered or

certified mail, return receipt requested, or by overnight courier or delivery service with signature required, as provide below. Notices shall be effective: upon receipt if hand delivered; upon receipt if delivered by overnight courier or delivery service on a regular business day; and three business days after mailing by registered or certified mail, return receipt requested:

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: David Baird, Vice President  
Cumming Construction Management, Inc.  
475 Sansome Street, Suite 520  
San Francisco, CA 94111  
Phone: 415.748.3087  
Fax: 415.748.3090  
[dbaird@ccorpusa.com](mailto:dbaird@ccorpusa.com)

OR

Nick Mata, Associate Director  
Cumming Construction Management, Inc.  
475 Sansome Street, Suite 520  
San Francisco, CA 94111  
Phone: 415.748.3093  
Fax: 415.748.3090  
[nmata@ccorpusa.com](mailto:nmata@ccorpusa.com)

18. **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.
19. **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.
20. **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.
21. **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.
22. **GOVERNING LAW AND VENUE.** This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the internal 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.

- 23. 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 County's reasonable judgment.
- 24. 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.

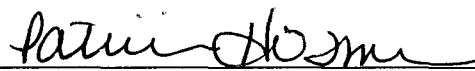
IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the day and year first hereinabove written.

CONSULTANT  
Cumming Construction Management, Inc.

  
By: Nick Mata  
Title: Associate Director

Telephone: 415.748.3087 (David Baird)  
Telephone: 415.748.3093 (Nick Mata)  
Fax: 415.748.3090

THE COUNTY OF STANISLAUS

  
Patricia Hill Thomas  
Stanislaus County  
Chief Operations Officer /  
Assistant Executive 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 SERVICES AND PROJECT(S)

The actual services and work (**Services**) to be performed will be determined by Capital Projects staff. Services 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

Services are expected to be rendered on the following types of County Projects:

**1. Re-Entry and Enhanced Alternatives to Custody Training (REACT) Center Project in Ceres, California**

This Sheriff's Office Adult Detention project will design and construct an adult detention housing and program facility on approximately 3.5 acres of County-owned land at the Public Safety Center, 200 E. Hackett Road, Ceres, California. The REACT Center Project includes secure transitional housing with programming and administrative space. The project includes 288 replacement adult detention transitional housing beds, and all necessary circulation and common space. The project will include parking, drive aisle access to the site, storm drainage and landscaping in addition to the 288 new transitional housing beds.

**2. Former Honor Farm Decommissioning and Disposition Project in Modesto, California**

The Sheriff's Office Honor Farm site, located at 8224 West Grayson Road, Modesto, California, was vacated in July 2013, with the completion and opening of the jail bed replacement Unit No. 2 at the Public Safety Center in Ceres, California. The County is currently in escrow with a private party to purchase real property from the County. The County is responsible for certain activities at the vacant site including but not limited to decommissioning the existing Waste Water Treatment Facility (WWTF), selective demolition of structures and other requirements as outlined in the real property Purchase and Sale Agreement.

**3. Sheriff-Coroner's Facility Project in Modesto, California**

The County is currently under construction with a general contractor to remodel County Center III, Building Two in Modesto, California as a Coroner's Facility. The building is a pre-fabricated metal building over concrete slab. Certain demolition, site work and structural activities are required of the County's general contractor.

**4. Crisis Stabilization Unit in Ceres, California**

The County is currently in the design phase to renovate an existing wing of the Stanislaus Recovery Center located at 1904 Richland Avenue, Ceres, California. The Crisis Stabilization Unit (CSU) will provide new client treatment space within 3,776 square feet. A new law enforcement entry turnaround is required with this project, necessitating site related work of trenching, paving and masonry.



**EXHIBIT B**  
**BILLING RATES SCHEDULE**

Principal In Charge	\$235/hour
Senior Project Manager	\$195/hour
Senior Estimator with 21+ yrs of Experience	\$185/hour
Senior Estimator with 11 – 20 yrs of Experience	\$175/hour
Estimator with 6 – 10 yrs of Experience	\$160/hour
Junior Estimator with 2 – 5 yrs of Experience	\$115/hour
Clerical Staff	\$ 65/hour

Except as otherwise expressly agreed by County in an approved Work Authorization, all Consultant costs, including benefits, overtime, travel and reimbursable expenses, are included in the agreed rates, and will not be separately reimbursed. In the event reimbursable expenses are approved, there shall be no markup on such items.

**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 Professional Services Agreement between Stanislaus County and Cumming Construction Management, Inc. dated April 28, 2015 (**Agreement**).
2. Description of Services: Provide the following: On Call Estimating Services for the [Name of the Project]: \_\_\_\_\_  
\_\_\_\_\_
3. Period of Performance: [Starting to Date to Completion Date], as directed by 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: [\_\_\_\_\_]

CONSULTANT  
Cumming Construction Management, Inc.

THE COUNTY OF STANISLAUS

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

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

Telephone: 415.748.3087 (David Baird)  
Telephone: 415.748.3093 (Nick Mata)  
Fax: 415.748.3090

Approved as to form:

Taxpayer ID  
#: \_\_\_\_\_

\_\_\_\_\_  
John P. Doering  
County Counsel

# **On-Call Estimating Agreement**

Sierra West Consulting Group, Inc.

## PROFESSIONAL SERVICES AGREEMENT

### (ON CALL ESTIMATING SERVICES)

This Professional Services Agreement is made and entered into by and between the **County of Stanislaus (County)** and Sierra West Consulting Group, Inc., a California corporation (**Consultant**), on April 28, 2015 (**Agreement**).

#### INTRODUCTION

WHEREAS, County has a need for On Call Estimating Services for 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 SERVICES.** Consultant shall provide County with On Call Estimating services and work (**Services**) for County capital projects in accordance with the Scope of Services described in Exhibit A attached hereto and in accordance with work orders or authorizations which are or will be attached hereto and incorporated herein by this reference (**Work Orders**).
2. **SCHEDULE.** Services and work provided by Consultant shall be performed in a timely manner in accordance with approved Work Orders and as directed by County's Construction Manager.
3. **TERM.**
  - 3.1 The term of this Agreement shall be from the date of approval of this Agreement until the later of April 28, 2018 and completion of the last outstanding Work Order, unless 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, County, at its option, may terminate this Agreement by giving fifteen (15) days notification to Consultant, provided that Consultant does not cure the default during that period.
  - 3.3 County may terminate this Agreement for its convenience upon ten (10) days prior written notice. Termination of this Agreement shall not affect County's obligation to pay for all services actually performed by Consultant in accordance with the terms of this Agreement.
  - 3.4 County may terminate this Agreement at any time if any key personnel is no longer available to provide Services under this Agreement, and if Consultant does not find a replacement satisfactory to County within ten (10) days.
  - 3.5 All warranties, indemnities and guarantees shall survive expiration or termination of this Agreement.
4. **OWNERSHIP OF RECORDS.** All documents and drawings prepared or produced by Consultant under this Agreement are property of County. 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 Consultant.
5. **COMPLIANCE WITH LAWS AND REGULATIONS.** 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 Consultant deems it appropriate to utilize the services of a subconsultant in connection with performance of Services under this Agreement, Consultant will so advise County and seek County's prior approval of such retention. Any subconsultant retained by Consultant will be the agent of Consultant, and not County.

**7. FACILITIES AND EQUIPMENT**

**7.1** Consultant shall provide such office space, other workspace, supplies, office and other equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide all Services under this Agreement. Consultant – not County – has the sole responsibility for paying all costs and expenses incurred by Consultant in providing and maintaining such items.

**8. CONSIDERATION.**

**8.1** Consultant shall be compensated for Services performed under a Work Order, based on the Billing Rates Schedule (Agreement Exhibit B), as provided in each Work Order. County shall not be required to pay more than the maximum amount specified in any Work Order, regardless of Consultant's level of effort required to perform the Services.

**8.2** Compensation payable to Consultant under a Work Order shall be for all labor, material, transportation, insurance, subconsultants, services and work required under this Agreement and the Work Order. Except as otherwise expressly agreed by County, all Consultant costs, including benefits, overtime, travel and reimbursables.

**8.3** Rates on Billing Rate Schedule shall remain fixed throughout the term of this Agreement.

**8.4** Except as expressly provided in this Agreement or a Work Order, 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, without limitation, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to any compensation or benefits payable to County employees, including, without limitation, 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.

**8.5** Consultant shall provide County with a monthly statement, as Services warrant, of fees earned and costs incurred for Services provided during the billing period, which County shall pay within thirty (30) days of the date each statement is approved by 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 Agreement, after subtracting amounts paid to date. All statements 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.

**8.6** County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is Consultant's sole responsibility. County has no responsibility or liability for payment of Consultant's taxes or assessments.

**9. REQUIRED LICENSES, CERTIFICATES AND PERMITS.** Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the Services must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect, at no cost to County. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses and certificates, and business licenses.

**10. INSURANCE.** Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

**10.1 General Liability Insurance.** General Liability Insurance, with limits of no less than One Million Dollars (\$1,000,000) combined single limit per incident or occurrence for bodily injury

including personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

- 10.2 Automobile Liability Insurance.** If Consultant or its officers, employees, agents, representatives or subconsultants utilize a motor vehicle in performing any 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.
- 10.3 Professional Liability Insurance.** Professional errors and omissions (malpractice) liability insurance with limits of no less than Two Million Dollars (\$2,000,000) per claim and aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for at least two years following completion of Consultant's Services under this Agreement.
- 10.4 Workers' Compensation Insurance.** Workers' Compensation insurance as required by the California Labor Code. In signing this Agreement, Consultant certifies under Labor Code Section 1861 that Consultant is aware of the provisions of Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of Services under this Agreement.
- 10.5 Deductibles.** Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At County's option, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to 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.
- 10.6 Additional Insured Endorsement.** Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.
- 10.7 Waiver of Right of Subrogation.** Insurance carriers under Consultant's general liability, automobile insurance and Workers' Compensation insurance policies shall waive all rights of subrogation against the Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees.
- 10.8 Consultant's Insurance is Primary.** Consultant's insurance coverage shall be primary insurance regarding County and its officers, directors, agents, employees and volunteers. Any insurance or self-insurance maintained by County or its officers, directors, agents, employees and volunteers, shall be excess of and not contribute with Consultant's insurance.
- 10.9 Notice to be Provided If Insurance is Cancelled.** 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. Consultant shall promptly notify, or cause the insurance carrier to promptly notify, County, of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits.

**10.10 Minimum Rating Requirements.** Insurance shall be placed with California admitted insurers (licensed to do business in California), and (except for Workers' Compensation) have a current rating by Best's Key Rating Guide of no less than A-VII.

**10.11 Subconsultants shall Maintain Same Levels of Insurance.** Consultant shall require all of its subconsultants to maintain the same types and minimum amounts of insurance stated herein, or shall include all subconsultants as additional named insureds under its insurance policies.

**10.12 Certificates of Insurance.** At least ten (10) days prior to the date Consultant begins performing its obligations under this Agreement, 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 Consultant's subconsultants. 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.

**10.13 Miscellaneous.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to County or its officers, the Board, officials and employees. 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.

## **11. DEFENSE AND INDEMNIFICATION**

**11.1** Consultant shall defend, indemnify and hold harmless County and its officers, directors, agents, employees and volunteers, 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 negligent performance of this Agreement, gross negligence or willful misconduct, by Consultant or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify or hold harmless County or other indemnitees for their sole negligence, active negligence, or gross negligence or willful misconduct.

**11.2** Consultant's obligation to defend, indemnify and hold County and other indemnitees is not limited to or restricted by any requirement in this Agreement for Consultant to procure or maintain insurance.

**11.3** Consultant shall include in all agreements with its subconsultants defense, indemnity and hold harmless provisions identical to the provisions in this section.

## **12. INDEPENDENT CONTRACTOR**

**12.1** Consultant shall at all times be deemed an independent contractor wholly responsible for the manner in which it performs the Services, and fully liable for the acts and omissions of its employees, subconsultants and agents. Under no circumstances shall this Agreement or any Work Order be construed as creating an employment, agency, joint venture or partnership relationship between County and Consultant, and no such relationship shall be implied from performance of this Agreement. Terms in this Agreement (if any) referring to direction from County shall be construed as providing for direction as to policy and the result of Services only, and not as to means and methods by which such a result is obtained. Consultant shall pay all taxes (including California sales and use taxes) levied upon this Agreement, all Work Orders, or the Services and/or goods delivered pursuant hereto.

**12.2** If in performing this Agreement Consultant utilizes any third persons, they shall be entirely and exclusively under Consultant's direction, supervision and control. Consultant shall determine all retention terms, including, without limitation, hours, wages, working conditions, discipline, hiring and discharging and any other employment term or legal requirement. Consultant shall indemnify and hold 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.

**12.3** 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.

**12.4** So long as County utilizes the services of Consultant, County agrees not to solicit any Consultant employee for employment with County.

### **13. RECORDS AND AUDIT.**

**13.1** Consultant shall maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four 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.

**13.2** Any authorized County representative shall have access to any such writings, documents and records for audit, evaluation, or examination during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the Services performed or being performed under this Agreement.

**13.3** The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred to County by this section. Such rights shall be specifically enforceable.

**14. NONDISCRIMINATION.** Consultant and its officers, employees, agents, representatives and subconsultants 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. Consultant and its officers, employees, agents, representatives and 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. 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. Consultant further agrees to abide by County's nondiscrimination policy.

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

**16. WAIVERS.** Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Agreement, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel compliance with any provision hereof. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by County and Consultant.

**17. NOTICES.** Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make, shall be in writing and provided by hand delivery, registered or



certified mail, return receipt requested, or by overnight courier or delivery service with signature required, as provide below. Notices shall be effective: upon receipt if hand delivered; upon receipt if delivered by overnight courier or delivery service on a regular business day; and three (3) business days after mailing by registered or certified mail, return receipt requested:

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: Mary E. Wallers, Principal or  
John Moreno, V.P. – Chief Estimator  
Sierra West Consulting Group, Inc.  
9700 Business Park Drive, #102  
Sacramento, CA 95827  
Phone: 916.925.4000  
Fax: 916.649.9455  
Email: [mewallers@sierrawestgroup.com](mailto:mewallers@sierrawestgroup.com)  
Email: [jlmoreno@sierrawestgroup.com](mailto:jlmoreno@sierrawestgroup.com)

- 18. 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.
- 19. 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.
- 20. 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.
- 21. 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.
- 22. GOVERNING LAW AND VENUE.** This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the internal 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.
- 23. 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 County's reasonable judgment.

**24. 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

Sierra West Consulting Group, Inc.,  
a California corporation

  
By: John Moreno  
Title: Chief Estimator / J.P.

Telephone: 916.925.4000  
Fax: 916.649.9455

THE COUNTY OF STANISLAUS

  
Patricia Hill Thomas  
Stanislaus County  
Chief Operations Officer /  
Assistant Executive 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 SERVICES AND PROJECT(S)

The actual services and work (**Services**) to be performed will be determined by Capital Projects staff. Services 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

Services are expected to be rendered on the following types of County Projects:

1. **Re-Entry and Enhanced Alternatives to Custody Training (REACT) Center Project in Ceres, California**

This Sheriff's Office Adult Detention project will design and construct an adult detention housing and program facility on approximately 3.5 acres of County-owned land at the Public Safety Center, 200 E. Hackett Road, Ceres, California. The REACT Center Project includes secure transitional housing with programming and administrative space. The project includes 288 replacement adult detention transitional housing beds, and all necessary circulation and common space. The project will include parking, drive isle access to the site, storm drainage and landscaping in addition to the 288 new transitional housing beds.

2. **Former Honor Farm Decommissioning and Disposition Project in Modesto, California**

The Sheriff's Office Honor Farm site, located at 8224 West Grayson Road, Modesto, California, was vacated in July 2013, with the completion and opening of the jail bed replacement Unit No. 2 at the Public Safety Center in Ceres, California. The County is currently in escrow with a private party to purchase real property from the County. The County is responsible for certain activities at the vacant site including but not limited to decommissioning the existing Waste Water Treatment Facility (WWTF), selective demolition of structures and other requirements as outlined in the real property Purchase and Sale Agreement.

3. **Sheriff-Coroner's Facility Project in Modesto, California**

The County is currently under construction with a general contractor to remodel County Center III, Building Two in Modesto, California as a Coroner's Facility. The building is a pre-fabricated metal building over concrete slab. Certain demolition, site work and structural activities are required of the County's general contractor.

4. **Crisis Stabilization Unit in Ceres, California**

The County is currently in the design phase to renovate an existing wing of the Stanislaus Recovery Center located at 1904 Richland Avenue, Ceres, California. The Crisis Stabilization Unit (CSU) will provide new client treatment space within 3,776 square feet. A new law enforcement entry turnaround is required with this project, necessitating site related work of trenching, paving and masonry.

**EXHIBIT B**  
**BILLING RATES SCHEDULE**

Principal In Charge	\$150/hour
Senior Project Manager	\$125/hour
Senior Project Manager with 11 – 20 yrs of Experience	\$125/hour
Estimator with 6 – 10 yrs of Experience	\$110/hour
Junior Estimator with 2 – 5 yrs of Experience	\$105/hour
Clerical Staff	\$ 65/hour

Except as otherwise expressly agreed by County in an approved Work Authorization, all Consultant costs, including benefits, overtime, travel and reimbursable expenses, are included in the agreed rates, and will not be separately reimbursed. In the event reimbursable expenses are approved, there shall be no markup on such items.

**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 Professional Services Agreement between Stanislaus County and Sierra West Consulting Group, Inc., dated April 28, 2015 (**Agreement**), the terms and conditions of which are incorporated herein by this reference.
2. Description of Services: Provide the following On Call Estimating Services for the [Name of the Project]: \_\_\_\_\_  
\_\_\_\_\_
3. Period of Performance: [Starting to Date to Completion Date], as directed by 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: [\_\_\_\_\_]

CONSULTANT

THE COUNTY OF STANISLAUS

Sierra West Consulting Group, Inc.

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

\_\_\_\_\_  
Patricia Hill Thomas

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

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

Telephone: 916.925.4000

Fax: 916.649.9455

Approved as to form:

Taxpayer ID

#: \_\_\_\_\_

\_\_\_\_\_  
John P. Doering

# **On-Call Code Review Agreement**

4LEAF, Inc.

**PROFESSIONAL SERVICES AGREEMENT**  
**(ON CALL CODE REVIEW SERVICES)**

This Professional Services Agreement is made and entered into by and between the **County of Stanislaus (County)** and **4LEAF, Inc.** a California corporation (**Consultant**), on April 28, 2015 (**Agreement**).

**INTRODUCTION**

WHEREAS, County has a need for On Call Code Review Services for 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 SERVICES.** Consultant shall provide County with on call code review services and work (**Services**) for County capital projects in accordance with the Scope of Services described in Exhibit A attached hereto and in accordance with work orders or authorizations which are or will be attached hereto and incorporated herein by this reference (**Work Orders**).
- 2. SCHEDULE.** Services and work provided by Consultant shall be performed in a timely manner in accordance with approved Work Orders and as directed by County's Construction Manager.
- 3. TERM.**
  - 3.1** The term of this Agreement shall be from the date of approval of this Agreement until the later of April 28, 2018 and completion of the last outstanding Work Order, unless 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, County, at its option, may terminate this Agreement by giving fifteen (15) days notification to Consultant, provided that Consultant does not cure the default during that period.
  - 3.3** County may terminate this Agreement for its convenience upon ten (10) days prior written notice. Termination of this Agreement shall not affect County's obligation to pay for all services actually performed by Consultant in accordance with the terms of this Agreement.
  - 3.4** County may terminate this Agreement at any time if any key personnel is no longer available to provide Services under this Agreement, and if Consultant does not find a replacement satisfactory to County within ten days.
  - 3.5** All warranties, indemnities and guarantees shall survive expiration or termination of this Agreement.
- 4. OWNERSHIP OF RECORDS.** All documents and drawings prepared or produced by Consultant under this Agreement are property of County. 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 Consultant.
- 5. COMPLIANCE WITH LAWS AND REGULATIONS.** 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 Consultant deems it appropriate to utilize the services of a subconsultant in connection with performance of Services under this Agreement, Consultant will so advise County and seek County's prior approval of such retention. Any subconsultant retained by Consultant will be the agent of Consultant, and not County.

**7. FACILITIES AND EQUIPMENT**

**7.1** Consultant shall provide such office space, other workspace, supplies, office and other equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide all Services under this Agreement. Consultant – not County – has the sole responsibility for paying all costs and expenses incurred by Consultant in providing and maintaining such items.

**8. CONSIDERATION.**

**8.1** Consultant shall be compensated for Services performed under a Work Order, based on the Billing Rates Schedule (Agreement Exhibit B), as provided in each Work Order. County shall not be required to pay more than the maximum amount specified in any Work Order, regardless of Consultant's level of effort required to perform the Services.

**8.2** Compensation payable to Consultant under a Work Order shall be for all labor, material, transportation, insurance, subconsultants, services and work required under this Agreement and the Work Order. Except as otherwise expressly agreed by County, all Consultant costs, including benefits, overtime, travel and reimbursables.

**8.3** Rates on Billing Rate Schedule shall remain fixed throughout the term of this Agreement.

**8.4** Except as expressly provided in this Agreement or a Work Order, 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, without limitation, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to any compensation or benefits payable to County employees, including, without limitation, 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.

**8.5** Consultant shall provide County with a monthly statement, as Services warrant, of fees earned and costs incurred for Services provided during the billing period, which County shall pay within thirty (30) days of the date each statement is approved by 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 Agreement, after subtracting amounts paid to date. All statements 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.

**8.6** County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is Consultant's sole responsibility. County has no responsibility or liability for payment of Consultant's taxes or assessments.

**9. REQUIRED LICENSES, CERTIFICATES AND PERMITS.** Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the Services must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect, at no cost to County. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses and certificates, and business licenses.

**10. INSURANCE.** Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

**10.1 General Liability Insurance.** General Liability Insurance, with limits of no less than One Million Dollars (\$1,000,000) combined single limit per incident or occurrence for bodily injury



including personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

- 10.2 Automobile Liability Insurance.** If Consultant or its officers, employees, agents, representatives or subconsultants utilize a motor vehicle in performing any 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.
- 10.3 Professional Liability Insurance.** Professional errors and omissions (malpractice) liability insurance with limits of no less than Two Million Dollars (\$2,000,000) per claim and aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for at least two years following completion of Consultant's Services under this Agreement.
- 10.4 Workers' Compensation Insurance.** Workers' Compensation insurance as required by the California Labor Code. In signing this Agreement, Consultant certifies under Labor Code Section 1861 that Consultant is aware of the provisions of Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of Services under this Agreement.
- 10.5 Deductibles.** Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At County's option, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to 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.
- 10.6 Additional Insured Endorsement.** Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.
- 10.7 Waiver of Right of Subrogation.** Insurance carriers under Consultant's general liability, automobile insurance and Workers' Compensation insurance policies shall waive all rights of subrogation against the Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees.
- 10.8 Consultant's Insurance is Primary.** Consultant's insurance coverage shall be primary insurance regarding County and its officers, directors, agents, employees and volunteers. Any insurance or self-insurance maintained by County or its officers, directors, agents, employees and volunteers, shall be excess of and not contribute with Consultant's insurance.
- 10.9 Notice to be Provided If Insurance is Cancelled.** Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party except after 30 days' prior written notice has been given to County. Consultant shall promptly notify, or cause the insurance carrier to promptly notify, County, of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits.

- 10.10 Minimum Rating Requirements.** Insurance shall be placed with California admitted insurers (licensed to do business in California), and (except for Workers' Compensation) have a current rating by Best's Key Rating Guide of no less than A-:VII.
- 10.11 Subconsultants shall Maintain Same Levels of Insurance.** Consultant shall require all of its subconsultants to maintain the same types and minimum amounts of insurance stated herein, or shall include all subconsultants as additional named insureds under its insurance policies.
- 10.12 Certificates of Insurance.** At least ten days prior to the date Consultant begins performing its obligations under this Agreement, 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 Consultant's subconsultants. 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.
- 10.13 Miscellaneous.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to County or its officers, the Board, officials and employees. 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.

## **11. DEFENSE AND INDEMNIFICATION**

- 11.1** Consultant shall defend, indemnify and hold harmless County and its officers, directors, agents, employees and volunteers, 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 negligent performance of this Agreement, gross negligence or willful misconduct, by Consultant or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify or hold harmless County or other indemnitees for their sole negligence, active negligence, or gross negligence or willful misconduct.
- 11.2** Consultant's obligation to defend, indemnify and hold County and other indemnitees is not limited to or restricted by any requirement in this Agreement for Consultant to procure or maintain insurance.
- 11.3** Consultant shall include in all agreements with its subconsultants defense, indemnity and hold harmless provisions identical to the provisions in this section.

## **12. INDEPENDENT CONTRACTOR**

- 12.1** Consultant shall at all times be deemed an independent contractor wholly responsible for the manner in which it performs the Services, and fully liable for the acts and omissions of its employees, subconsultants and agents. Under no circumstances shall this Agreement or any Work Order be construed as creating an employment, agency, joint venture or partnership relationship between County and Consultant, and no such relationship shall be implied from performance of this Agreement. Terms in this Agreement (if any) referring to direction from County shall be construed as providing for direction as to policy and the result of Services only, and not as to means and methods by which such a result is obtained. Consultant shall pay all taxes (including California sales and use taxes) levied upon this Agreement, all Work Orders, or the Services and/or goods delivered pursuant hereto.
- 12.2** If in performing this Agreement Consultant utilizes any third persons, they shall be entirely and exclusively under Consultant's direction, supervision and control. Consultant shall determine all retention terms, including, without limitation, hours, wages, working conditions, discipline, hiring and discharging and any other employment term or legal requirement. Consultant shall indemnify and hold 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.

**12.3** 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.

**12.4** So long as County utilizes the services of Consultant, County agrees not to solicit any Consultant employee for employment with County.

**13. RECORDS AND AUDIT.**

**13.1** Consultant shall maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four 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.

**13.2** Any authorized County representative shall have access to any such writings, documents and records for audit, evaluation, or examination during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the Services performed or being performed under this Agreement.

**13.3** The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred to County by this section. Such rights shall be specifically enforceable.

**14. NONDISCRIMINATION.** Consultant and its officers, employees, agents, representatives and subconsultants 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. Consultant and its officers, employees, agents, representatives and 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. 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. Consultant further agrees to abide by County's nondiscrimination policy.

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

**16. WAIVERS.** Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Agreement, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel compliance with any provision hereof. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by County and Consultant.

**17. NOTICES.** Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make, shall be in writing and provided by hand delivery, registered or certified mail, return receipt requested, or by overnight courier or delivery service with signature required, as provide below. Notices shall be effective: upon receipt if hand delivered; upon receipt if

delivered by overnight courier or delivery service on a regular business day; and three business days after mailing by registered or certified mail, return receipt requested:

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: 4LEAF, Inc., a California corporation  
2110 Rheem Drive, Suite A  
Pleasanton, CA 94588  
Phone: 925.462.5959  
Fax: 925.462.5958

- 18. 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.
- 19. 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.
- 20. 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.
- 21. 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.
- 22. GOVERNING LAW AND VENUE.** This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the internal 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.
- 23. 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 County's reasonable judgment.
- 24. 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  
4LEAF, Inc., a California Corporation

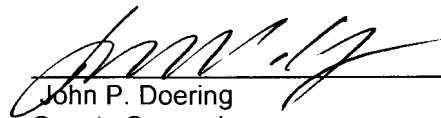
  
By: KEVIN DUGGAN  
Title: PRESIDENT

Telephone: 925.462.5959  
Fax: 925.462.5958

THE COUNTY OF STANISLAUS

  
Patricia Hill Thomas  
Stanislaus County  
Chief Operations Officer /  
Assistant Executive 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 SERVICES AND PROJECT(S)

The actual services and work (**Services**) to be performed will be determined by Capital Projects staff. Services shall include but not limited to the following areas:

- 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.
- Ascertain whether the construction indicated and described is in accordance with the requirements of the technical codes, all other pertinent laws and ordinances.
- Determine if plans conform to the required strengths, stresses, strains, loads and stability as per the aforementioned laws.
- 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.
- Perform initial plan review and submit comments no later than 15 business days after receipt, and sooner if feasible, to Capital Projects staff.
- Sign the plans if the plans meet applicable code requirements.

Services are expected to be rendered on the following types of County Projects:

**1. Re-Entry and Enhanced Alternatives to Custody Training (REACT) Center Project in Ceres, California**

This Sheriff's Office Adult Detention project will design and construct an adult detention housing and program facility on approximately 3.5 acres of County-owned land at the Public Safety Center, 200 E. Hackett Road, Ceres, California. The REACT Center Project includes secure transitional housing with programming and administrative space. The project includes 288 replacement adult detention transitional housing beds, and all necessary circulation and common space. The project will include parking, drive isle access to the site, storm drainage and landscaping in addition to the 288 new transitional housing beds.

**2. Former Honor Farm Decommissioning and Disposition Project in Modesto, California**

The Sheriff's Office Honor Farm site, located at 8224 West Grayson Road, Modesto, California, was vacated in July 2013, with the completion and opening of the jail bed replacement Unit No. 2 at the Public Safety Center in Ceres, California. The County is currently in escrow with a private party to purchase real property from the County. The County is responsible for certain activities at the vacant site including but not limited to decommissioning the existing Waste Water Treatment Facility (WWTF), selective demolition of structures and other requirements as outlined in the real property Purchase and Sale Agreement.

**3. Sheriff-Coroner's Facility Project in Modesto, California**

The County is currently under construction with a general contractor to remodel County Center III, Building Two in Modesto, California as a Coroner's Facility. The building is a pre-fabricated metal building over concrete slab. Certain demolition, site work and structural activities are required of the County's general contractor.

**4. Crisis Stabilization Unit in Ceres, California**

The County is currently in the design phase to renovate an existing wing of the Stanislaus Recovery Center located at 1904 Richland Avenue, Ceres, California. The Crisis Stabilization Unit (CSU) will provide new client treatment space within 3,776 square feet. A new law enforcement entry turnaround is required with this project, necessitating site related work of trenching, paving and masonry.

**EXHIBIT B**  
**BILLING RATES SCHEDULE**

Principal In Charge	[\$180/hour]
Director	[\$150/hour]
Project Manager	[\$150/hour]
Senior Plans Examiner Engineer/Architect	[\$120/hour]
Plans Examiner Engineer Architect	[\$110/hour]
Senior Plans Examiner	[\$100/hour]
Plans Examiner	[\$95/hour]
Senior Building Inspector	[\$105/hour]
Building Inspector	[\$85/hour]
Supervising Plan Review Coordinator	[\$105/hour]
Plan Review Coordinator	[\$80/hour]
Clerical	[\$50/hour]

Except as otherwise expressly agreed by County in an approved Work Authorization, all Consultant costs, including benefits, overtime, travel and reimbursable expenses, are included in the agreed rates, and will not be separately reimbursed. In the event reimbursable expenses are approved, there shall be no markup on such items.

**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 Professional Services Agreement between Stanislaus County and 4LEAF, Inc., dated April 28, 2015 (**Agreement**), the terms and conditions of which are incorporated herein by this reference.
2. Description of Services: Provide the following On Call Code Review Services for the [Name of the Project]: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Period of Performance: [Starting to Date to Completion Date], as directed by 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: [\_\_\_\_\_]

CONSULTANT  
4LEAF, Inc., a California Corporation

THE COUNTY OF STANISLAUS

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

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

Telephone: 925.462.5959  
Fax: 925.462.5958

Taxpayer ID

#: \_\_\_\_\_



# **On-Call Civil Engineering Agreement**

O'Dell Engineering, Inc.

**PROFESSIONAL SERVICES AGREEMENT  
(ON CALL CIVIL ENGINEERING SERVICES)**

This Professional Services Agreement is made and entered into by and between the **County of Stanislaus (County)** and O'Dell Engineering, Inc., a California corporation (**Consultant**), on April 28, 2015 (**Agreement**).

**INTRODUCTION**

WHEREAS, County has a need for On Call Civil Engineering Services for 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 SERVICES.** Consultant shall provide County with On Call Civil Engineering services and work (**Services**) for County capital projects in accordance with the Scope of Services described in Exhibit A attached hereto and in accordance with work orders or authorizations which are or will be attached hereto and incorporated herein by this reference (**Work Orders**).
2. **SCHEDULE.** Services and work provided by Consultant shall be performed in a timely manner in accordance with approved Work Orders and as directed by County's Construction Manager.
3. **TERM.**
  - 3.1 The term of this Agreement shall be from the date of approval of this Agreement until the later of April 28, 2018 and completion of the last outstanding Work Order, unless 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, County, at its option, may terminate this Agreement by giving fifteen (15) days notification to Consultant, provided that Consultant does not cure the default during that period.
  - 3.3 County may terminate this Agreement for its convenience upon ten (10) days prior written notice. Termination of this Agreement shall not affect County's obligation to pay for all services actually performed by Consultant in accordance with the terms of this Agreement.
  - 3.4 County may terminate this Agreement at any time if any key personnel is no longer available to provide Services under this Agreement, and if Consultant does not find a replacement satisfactory to County within ten (10) days.
  - 3.5 All warranties, indemnities and guarantees shall survive expiration or termination of this Agreement.
4. **OWNERSHIP OF RECORDS.** All documents and drawings prepared or produced by Consultant under this Agreement are property of County. 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 Consultant.
5. **COMPLIANCE WITH LAWS AND REGULATIONS.** 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 Consultant deems it appropriate to utilize the services of a subconsultant in connection with performance of Services under this Agreement, Consultant will so advise County and seek County's prior approval of such retention. Any subconsultant retained by Consultant will be the agent of Consultant, and not of County.

**7. FACILITIES AND EQUIPMENT**

**7.1** Consultant shall provide such office space, other workspace, supplies, office and other equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide all Services under this Agreement. Consultant – not County – has the sole responsibility for paying all costs and expenses incurred by Consultant in providing and maintaining such items.

**8. CONSIDERATION.**

**8.1** Consultant shall be compensated for Services performed under a Work Order, based on the Billing Rates Schedule (Agreement Exhibit B), as provided in each Work Order. County shall not be required to pay more than the maximum amount specified in any Work Order, regardless of Consultant's level of effort required to perform the Services.

**8.2** Compensation payable to Consultant under a Work Order shall be for all labor, material, transportation, insurance, subconsultants, services and work required under this Agreement and the Work Order. Except as otherwise expressly agreed by County, all Consultant costs, including benefits, overtime, travel and reimbursables.

**8.3** Rates on Billing Rate Schedule shall remain fixed throughout the term of the Agreement.

**8.4** Except as expressly provided in this Agreement or a Work Order, 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, without limitation, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to any compensation or benefits payable to County employees, including, without limitation, 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.

**8.5** Consultant shall provide County with a monthly statement, as Services warrant, of fees earned and costs incurred for Services provided during the billing period, which County shall pay within thirty (30) days of the date each statement is approved by 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 Agreement, after subtracting amounts paid to date. All statements 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.

**8.6** County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is Consultant's sole responsibility. County has no responsibility or liability for payment of Consultant's taxes or assessments.

**9. REQUIRED LICENSES, CERTIFICATES AND PERMITS.** Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the Services must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect, at no cost to County. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses and certificates, and business licenses.

**10. INSURANCE.** Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

**10.1 General Liability Insurance.** General Liability Insurance, with limits of no less than One Million Dollars (\$1,000,000) combined single limit per incident or occurrence for bodily injury

including personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

- 10.2 Automobile Liability Insurance.** If Consultant or its officers, employees, agents, representatives or subconsultants utilize a motor vehicle in performing any 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.
- 10.3 Professional Liability Insurance.** Professional errors and omissions (malpractice) liability insurance with limits of no less than Two Million Dollars (\$2,000,000) per claim and aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for at least two (2) years following completion of Consultant's Services under this Agreement.
- 10.4 Workers' Compensation Insurance.** Workers' Compensation insurance as required by the California Labor Code. In signing this Agreement, Consultant certifies under Labor Code Section 1861 that Consultant is aware of the provisions of Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of Services under this Agreement.
- 10.5 Deductibles.** Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At County's option, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to 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.
- 10.6 Additional Insured Endorsement.** Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.
- 10.7 Waiver of Right of Subrogation.** Insurance carriers under Consultant's general liability, automobile insurance and Workers' Compensation insurance policies shall waive all rights of subrogation against the Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees.
- 10.8 Consultant's Insurance is Primary.** Consultant's insurance coverage shall be primary insurance regarding County and its officers, directors, agents, employees and volunteers. Any insurance or self-insurance maintained by County or its officers, directors, agents, employees and volunteers, shall be excess of and not contribute with Consultant's insurance.
- 10.9 Notice to be Provided If Insurance is Cancelled.** 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. Consultant shall promptly notify, or cause the insurance carrier to promptly notify, County, of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits.

- 10.10 Minimum Rating Requirements.** Insurance shall be placed with California admitted insurers (licensed to do business in California), and (except for Workers' Compensation) have a current rating by Best's Key Rating Guide of no less than A-VII.
- 10.11 Subconsultants shall Maintain Same Levels of Insurance.** Consultant shall require all of its subconsultants to maintain the same types and minimum amounts of insurance stated herein, or shall include all subconsultants as additional named insureds under its insurance policies.
- 10.12 Certificates of Insurance.** At least ten (10) days prior to the date Consultant begins performing its obligations under this Agreement, 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 Consultant's subconsultants. 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.
- 10.13 Miscellaneous.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to County or its officers, the Board, officials and employees. 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.

## **11. DEFENSE AND INDEMNIFICATION**

- 11.1** Consultant shall defend, indemnify and hold harmless County and its officers, directors, agents, employees and volunteers, 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 negligent performance of this Agreement, gross negligence or willful misconduct, by Consultant or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify or hold harmless County or other indemnitees for their sole negligence, active negligence, or gross negligence or willful misconduct.
- 11.2** Consultant's obligation to defend, indemnify and hold County and other indemnitees is not limited to or restricted by any requirement in this Agreement for Consultant to procure or maintain insurance.
- 11.3** Consultant shall include in all agreements with its subconsultants defense, indemnity and hold harmless provisions identical to the provisions in this section.

## **12. INDEPENDENT CONTRACTOR**

- 12.1** Consultant shall at all times be deemed an independent contractor wholly responsible for the manner in which it performs the Services, and fully liable for the acts and omissions of its employees, subconsultants and agents. Under no circumstances shall this Agreement or any Work Order be construed as creating an employment, agency, joint venture or partnership relationship between County and Consultant, and no such relationship shall be implied from performance of this Agreement. Terms in this Agreement (if any) referring to direction from County shall be construed as providing for direction as to policy and the result of Services only, and not as to means and methods by which such a result is obtained. Consultant shall pay all taxes (including California sales and use taxes) levied upon this Agreement, all Work Orders, or the Services and/or goods delivered pursuant hereto.
- 12.2** If in performing this Agreement Consultant utilizes any third persons, they shall be entirely and exclusively under Consultant's direction, supervision and control. Consultant shall determine all retention terms, including, without limitation, hours, wages, working conditions, discipline, hiring and discharging and any other employment term or legal requirement. Consultant shall indemnify and hold 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.

**12.3** 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.

**12.4** So long as County utilizes the services of Consultant, County agrees not to solicit any Consultant employee for employment with County.

### **13. RECORDS AND AUDIT.**

**13.1** 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.

**13.2** Any authorized County representative shall have access to any such writings, documents and records for audit, evaluation, or examination during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the Services performed or being performed under this Agreement.

**13.3** The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred to County by this section. Such rights shall be specifically enforceable.

**14. NONDISCRIMINATION.** Consultant and its officers, employees, agents, representatives and subconsultants 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. Consultant and its officers, employees, agents, representatives and 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. 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. Consultant further agrees to abide by County's nondiscrimination policy.

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

**16. WAIVERS.** Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Agreement, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel compliance with any provision hereof. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by County and Consultant.

**17. NOTICES.** Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make, shall be in writing and provided by hand delivery, registered or

certified mail, return receipt requested, or by overnight courier or delivery service with signature required, as provide below. Notices shall be effective: upon receipt if hand delivered; upon receipt if delivered by overnight courier or delivery service on a regular business day; and three (3) business days after mailing by registered or certified mail, return receipt requested:

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: O'Dell Engineering, Inc.  
Attention: Randall O'Dell, President  
1165 Scenic Drive, Suite B  
Modesto, CA 95350  
Phone: 209.571-1765  
Fax: 209.571-2466

- 18. 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.
- 19. 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.
- 20. 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.
- 21. 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.
- 22. GOVERNING LAW AND VENUE.** This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the internal 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.
- 23. 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 County's reasonable judgment.

**24. 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.

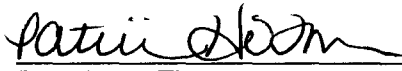
IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the day and year first hereinabove written.

CONSULTANT  
O'DELL ENGINEERING, INC.

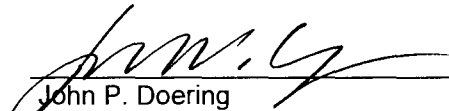
  
\_\_\_\_\_  
By: Randall O'Dell, President

Telephone: 209.571.1765  
Fax: 209.571.2466

THE COUNTY OF STANISLAUS

  
\_\_\_\_\_  
Patricia Hill Thomas  
Stanislaus County  
Chief Operations Officer /  
Assistant Executive 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 SERVICES AND PROJECT(S)

The actual services and work (**Services**) to be performed will be determined by Capital Projects staff. Services shall include but not limited to the following areas of land surveying, civil engineering and land planning:

- Surveys (ALTA, Boundaries, etc.),
- Measurements,
- Staking,
- Parcel, Topographical and Utility Mapping,
- Legal Descriptions, and
- Assistance in Property Line / Parcel Adjustments.

Any and all civil engineering services required for the development, improvement, design, repair or other modification of selected County utilities and systems and site areas, including the analysis, planning and design, and cost estimating for such improvements.

**EXHIBIT B**

**BILLING RATES SCHEDULE**

Principal In Charge	\$180/hour
Senior Civil Engineer	\$160/hour
Senior Engineer 2	\$150/hour
Senior Engineer 1	\$140/hour
Engineer 2	\$130/hour
Engineer 1	\$120/hour
Assistant Engineer 2	\$110/hour
Assistant Engineer 1	\$ 90/hour
Senior Landscape Architect	\$130/hour
Landscape Architect	\$110/hour
Landscape Designer	\$ 90/hour
Planner	\$130/hour
Assistant Planner	\$110/hour
Utility Engineer	\$120/hour
CADD Operator	\$120/hour
Senior Surveyor	\$130/hour
Surveyor	\$110/hour
Assistant Surveyor	\$ 90/hour
Survey Crew 2-man/1-man	\$180/hour/130 hour
Survey Crew 3D laser scanning 2-man/1-man	\$230/hour/\$200hour
Survey Crew 2-man/1-man (prevailing wages)	\$230/hour/\$160/hour
Administrative	\$ 70/hour
Project Manager	\$ _____

Except as otherwise expressly agreed by County in an approved Work Authorization, all Consultant costs, including benefits, overtime, travel and reimbursable expenses, are included in the agreed rates, and will not be separately reimbursed. In the event reimbursable expenses are approved, there shall be no markup on such items.

WORK AUTHORIZATION FOR ON CALL CIVIL ENGINEERING SERVICES

No. 1

1. This Work Authorization is entered into as of [\_\_\_\_\_], in accordance with the terms and conditions of that Professional Services Agreement between Stanislaus County and O'Dell Engineering, Inc. dated April 28, 2015 (**Agreement**), the terms and conditions of which are incorporated herein by reference.
2. Description of Services: Provide the following On Call Civil Engineering Services for the [Name of the Project]: \_\_\_\_\_  
\_\_\_\_\_
3. Period of Performance: [Starting to Date to Completion Date], as directed by 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: [\_\_\_\_\_]

CONSULTANT  
O'DELL ENGINEERING, INC.

THE COUNTY OF STANISLAUS

\_\_\_\_\_  
By: Randall O'Dell, President

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

Telephone: 209.571.1765  
Fax: 209.571.2466

# **On-Call Civil Engineering Agreement**

Associated Engineering Group, Inc.

**PROFESSIONAL SERVICES AGREEMENT  
(ON CALL CIVIL ENGINEERING SERVICES)**

This Professional Services Agreement is made and entered into by and between the **County of Stanislaus (County)** and Associated Engineering Group, Inc., a California corporation (**Consultant**), on April 28, 2015 (**Agreement**).

**INTRODUCTION**

WHEREAS, County has a need for On Call Civil Engineering Services for 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 SERVICES.** Consultant shall provide County with On Call Civil Engineering services and work (**Services**) for County capital projects in accordance with the Scope of Services described in Exhibit A attached hereto and in accordance with work orders or authorizations which are or will be attached hereto and incorporated herein by this reference (**Work Orders**).
2. **SCHEDULE.** Services and work provided by Consultant shall be performed in a timely manner in accordance with approved Work Orders and as directed by County's Construction Manager.
3. **TERM.**
  - 3.1 The term of this Agreement shall be from the date of approval of this Agreement until the later of April 28, 2018 and completion of the last outstanding Work Order, unless 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, County, at its option, may terminate this Agreement by giving fifteen (15) days notification to Consultant, provided that Consultant does not cure the default during that period.
  - 3.3 County may terminate this Agreement for its convenience upon ten (10) days prior written notice. Termination of this Agreement shall not affect County's obligation to pay for all services actually performed by Consultant in accordance with the terms of this Agreement.
  - 3.4 County may terminate this Agreement at any time if any key personnel is no longer available to provide Services under this Agreement, and if Consultant does not find a replacement satisfactory to County within ten (10) days.
  - 3.5 All warranties, indemnities and guarantees shall survive expiration or termination of this Agreement.
4. **OWNERSHIP OF RECORDS.** All documents and drawings prepared or produced by Consultant under this Agreement are property of County. 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 Consultant.
5. **COMPLIANCE WITH LAWS AND REGULATIONS.** 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 Consultant deems it appropriate to utilize the services of a subconsultant in connection with performance of Services under this Agreement, Consultant will so advise County and seek County's prior approval of such retention. Any subconsultant retained by Consultant will be the agent of Consultant, and not of County.

**7. FACILITIES AND EQUIPMENT**

**7.1** Consultant shall provide such office space, other workspace, supplies, office and other equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide all Services under this Agreement. Consultant – not County – has the sole responsibility for paying all costs and expenses incurred by Consultant in providing and maintaining such items.

**8. CONSIDERATION.**

**8.1** Consultant shall be compensated for Services performed under a Work Order, based on the Billing Rates Schedule (Agreement Exhibit B), as provided in each Work Order. County shall not be required to pay more than the maximum amount specified in any Work Order, regardless of Consultant's level of effort required to perform the Services.

**8.2** Compensation payable to Consultant under a Work Order shall be for all labor, material, transportation, insurance, subconsultants, services and work required under this Agreement and the Work Order. Except as otherwise expressly agreed by County, all Consultant costs, including benefits, overtime, travel and reimbursables.

**8.3** Rates on Billing Rate Schedule shall remain fixed throughout the term of the Agreement.

**8.4** Except as expressly provided in this Agreement or a Work Order, 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, without limitation, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to any compensation or benefits payable to County employees, including, without limitation, 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.

**8.5** Consultant shall provide County with a monthly statement, as Services warrant, of fees earned and costs incurred for Services provided during the billing period, which County shall pay within thirty (30) days of the date each statement is approved by 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 Agreement, after subtracting amounts paid to date. All statements 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.

**8.6** County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is Consultant's sole responsibility. County has no responsibility or liability for payment of Consultant's taxes or assessments.

**9. REQUIRED LICENSES, CERTIFICATES AND PERMITS.** Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the Services must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect, at no cost to County. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses and certificates, and business licenses.

**10. INSURANCE.** Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

**10.1 General Liability Insurance.** General Liability Insurance, with limits of no less than One Million Dollars (\$1,000,000) combined single limit per incident or occurrence for bodily injury

including personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

- 10.2 Automobile Liability Insurance.** If Consultant or its officers, employees, agents, representatives or subconsultants utilize a motor vehicle in performing any 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.
- 10.3 Professional Liability Insurance.** Professional errors and omissions (malpractice) liability insurance with limits of no less than Two Million Dollars (\$2,000,000) per claim and aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for at least two (2) years following completion of Consultant's Services under this Agreement.
- 10.4 Workers' Compensation Insurance.** Workers' Compensation insurance as required by the California Labor Code. In signing this Agreement, Consultant certifies under Labor Code Section 1861 that Consultant is aware of the provisions of Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of Services under this Agreement.
- 10.5 Deductibles.** Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At County's option, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to 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.
- 10.6 Additional Insured Endorsement.** Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.
- 10.7 Waiver of Right of Subrogation.** Insurance carriers under Consultant's general liability, automobile insurance and Workers' Compensation insurance policies shall waive all rights of subrogation against the Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees.
- 10.8 Consultant's Insurance is Primary.** Consultant's insurance coverage shall be primary insurance regarding County and its officers, directors, agents, employees and volunteers. Any insurance or self-insurance maintained by County or its officers, directors, agents, employees and volunteers, shall be excess of and not contribute with Consultant's insurance.
- 10.9 Notice to be Provided If Insurance is Cancelled.** 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. Consultant shall promptly notify, or cause the insurance carrier to promptly notify, County, of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits.

- 10.10 Minimum Rating Requirements.** Insurance shall be placed with California admitted insurers (licensed to do business in California), and (except for Workers' Compensation) have a current rating by Best's Key Rating Guide of no less than A-VII.
- 10.11 Subconsultants shall Maintain Same Levels of Insurance.** Consultant shall require all of its subconsultants to maintain the same types and minimum amounts of insurance stated herein, or shall include all subconsultants as additional named insureds under its insurance policies.
- 10.12 Certificates of Insurance.** At least ten (10) days prior to the date Consultant begins performing its obligations under this Agreement, 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 Consultant's subconsultants. 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.
- 10.13 Miscellaneous.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to County or its officers, the Board, officials and employees. 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.

## **11. DEFENSE AND INDEMNIFICATION**

- 11.1** Consultant shall defend, indemnify and hold harmless County and its officers, directors, agents, employees and volunteers, 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 negligent performance of this Agreement, gross negligence or willful misconduct, by Consultant or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify or hold harmless County or other indemnitees for their sole negligence, active negligence, or gross negligence or willful misconduct.
- 11.2** Consultant's obligation to defend, indemnify and hold County and other indemnitees is not limited to or restricted by any requirement in this Agreement for Consultant to procure or maintain insurance.
- 11.3** Consultant shall include in all agreements with its subconsultants defense, indemnity and hold harmless provisions identical to the provisions in this section.

## **12. INDEPENDENT CONTRACTOR**

- 12.1** Consultant shall at all times be deemed an independent contractor wholly responsible for the manner in which it performs the Services, and fully liable for the acts and omissions of its employees, subconsultants and agents. Under no circumstances shall this Agreement or any Work Order be construed as creating an employment, agency, joint venture or partnership relationship between County and Consultant, and no such relationship shall be implied from performance of this Agreement. Terms in this Agreement (if any) referring to direction from County shall be construed as providing for direction as to policy and the result of Services only, and not as to means and methods by which such a result is obtained. Consultant shall pay all taxes (including California sales and use taxes) levied upon this Agreement, all Work Orders, or the Services and/or goods delivered pursuant hereto.
- 12.2** If in performing this Agreement Consultant utilizes any third persons, they shall be entirely and exclusively under Consultant's direction, supervision and control. Consultant shall determine all retention terms, including, without limitation, hours, wages, working conditions, discipline, hiring and discharging and any other employment term or legal requirement. Consultant shall indemnify and hold 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.

**12.3** 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.

**12.4** So long as County utilizes the services of Consultant, County agrees not to solicit any Consultant employee for employment with County.

### **13. RECORDS AND AUDIT.**

**13.1** 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.

**13.2** Any authorized County representative shall have access to any such writings, documents and records for audit, evaluation, or examination during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the Services performed or being performed under this Agreement.

**13.3** The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred to County by this section. Such rights shall be specifically enforceable.

**14. NONDISCRIMINATION.** Consultant and its officers, employees, agents, representatives and subconsultants 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. Consultant and its officers, employees, agents, representatives and 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. 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. Consultant further agrees to abide by County's nondiscrimination policy.

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

**16. WAIVERS.** Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Agreement, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel compliance with any provision hereof. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by County and Consultant.

**17. NOTICES.** Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make, shall be in writing and provided by hand delivery, registered or

certified mail, return receipt requested, or by overnight courier or delivery service with signature required, as provide below. Notices shall be effective: upon receipt if hand delivered; upon receipt if delivered by overnight courier or delivery service on a regular business day; and three business days after mailing by registered or certified mail, return receipt requested:

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: Associated Engineering Group, Inc.  
Attention: Jim Freitas, Vice President  
4206 Technology Drive, Suite 4  
Modesto, CA 95356  
Phone: 209.545.3390  
Email: [jim@assoceng.com](mailto:jim@assoceng.com)

- 18. 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.
- 19. 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.
- 20. 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.
- 21. 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.
- 22. GOVERNING LAW AND VENUE.** This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the internal 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.
- 23. 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 County's reasonable judgment.


**24. 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.

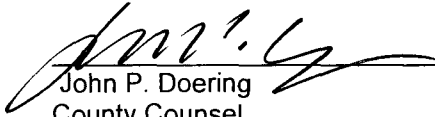
CONSULTANT  
ASSOCIATED ENGINEERING GROUP, INC.

  
By: Jim Freitas  
Vice President

THE COUNTY OF STANISLAUS

  
Patricia Hill Thomas  
Stanislaus County  
Chief Operations Officer /  
Assistant Executive 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 SERVICES AND PROJECT(S)

The actual services and work (**Services**) to be performed will be determined by Capital Projects staff. Services shall include but not limited to the following areas of land surveying, civil engineering and land planning:

- Surveys (ALTA, Boundaries, etc.),
- Measurements,
- Staking,
- Parcel, Topographical and Utility Mapping,
- Legal Descriptions, and
- Assistance in Property Line / Parcel Adjustments.

Any and all civil engineering services required for the development, improvement, design, repair or other modification of selected County utilities and systems and site areas, including the analysis, planning and design, and cost estimating for such improvements.

## EXHIBIT B

### ENGINEERING

Civil Engineer	\$150/hour
Qualified SWPPP Developer	\$150/hour
Project Manager	\$130/hour
Senior Designer	\$125/hour
Designer	\$105/hour
SWPPP Technician	\$105/hour
CADD Technician	\$85/hour
Technical Assistant	\$65/hour
Land Surveyor	\$150/hour
Assistant Surveyor	\$120/hour
Survey Technician	\$100/hour
Field Technician (Robot-GPS)	\$135/hour
Two-Person Field Crew	\$170/hour
Field Technician (Robot-GPS) (Prevailing Wage)	\$155/hour
Two-Person Field Crew (Prevailing Wage)	\$210/hour
Technical Assistant	\$65/hour
Land Planner	\$150/hour
Project Planner	\$130/hour
Assistant Planner	\$100/hour
CADD Technician	\$85/hour
Graphic Designer	\$85/hour
Technical Assistant	\$65/hour

Except as otherwise expressly agreed by County in an approved Work Authorization, all Consultant costs, including benefits, overtime, travel and reimbursable expenses, are included in the agreed rates, and will not be separately reimbursed. In the event reimbursable expenses are approved, there shall be no markup on such items.

**WORK AUTHORIZATION FOR ON CALL CIVIL ENGINEERING SERVICES**

No. 1

1. This Work Authorization is entered into as of [\_\_\_\_\_], in accordance with the terms and conditions of that Professional Services Agreement between Stanislaus County and Associated Engineering Group, Inc. dated April 28, 2015 (**Agreement**), the terms and conditions of which are incorporated herein by reference.
  
2. Description of Services: Provide the following On Call Civil Engineering Services for the [Name of the Project]: \_\_\_\_\_  
\_\_\_\_\_
  
3. Period of Performance: [Starting to Date to Completion Date], as directed by 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: [\_\_\_\_\_]

CONSULTANT  
ASSOCIATED ENGINEERING GROUP, INC.

THE COUNTY OF STANISLAUS

\_\_\_\_\_  
By: Jim Freitas, Vice President

Telephone: 209.545.3390

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

# **On-Call Civil Engineering Agreement**

Bureau Veritas North America, Inc.

## PROFESSIONAL SERVICES AGREEMENT

### (ON CALL CODE REVIEW SERVICES)

This Professional Services Agreement is made and entered into by and between the **County of Stanislaus (County)** and **Bureau Veritas North America, Inc.** a California corporation (**Consultant**), on June 30, 2015 (**Agreement**).

#### INTRODUCTION

WHEREAS, County has a need for On Call Code Review Services for 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 SERVICES.** Consultant shall provide County with on call code review services and work (**Services**) for County capital projects in accordance with the Scope of Services described in Exhibit A attached hereto and in accordance with work orders or authorizations which are or will be attached hereto and incorporated herein by this reference (**Work Orders**).
2. **SCHEDULE.** Services and work provided by Consultant shall be performed in a timely manner in accordance with approved Work Orders and as directed by County's Construction Manager.
3. **TERM.**
  - 3.1 The term of this Agreement shall be from the date of approval of this Agreement until the later of June 29, 2018 and completion of the last outstanding Work Order, unless 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, County, at its option, may terminate this Agreement by giving fifteen (15) days notification to Consultant, provided that Consultant does not cure the default during that period.
  - 3.3 County may terminate this Agreement for its convenience upon ten (10) days prior written notice. Termination of this Agreement shall not affect County's obligation to pay for all services actually performed by Consultant in accordance with the terms of this Agreement.
  - 3.4 County may terminate this Agreement at any time if any key personnel is no longer available to provide Services under this Agreement, and if Consultant does not find a replacement satisfactory to County within ten (10) days.
  - 3.5 All warranties, indemnities and guarantees shall survive expiration or termination of this Agreement.
4. **OWNERSHIP OF RECORDS.** All documents and drawings prepared or produced by Consultant under this Agreement are property of County. 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 Consultant.
5. **COMPLIANCE WITH LAWS AND REGULATIONS.** 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 Consultant deems it appropriate to utilize the services of a subconsultant in connection with performance of Services under this Agreement, Consultant will so advise County and seek County's prior approval of such retention. Any subconsultant retained by Consultant will be the agent of Consultant, and not County.
- 7. FACILITIES AND EQUIPMENT**
- 7.1** Consultant shall provide such office space, other workspace, supplies, office and other equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide all Services under this Agreement. Consultant – not County – has the sole responsibility for paying all costs and expenses incurred by Consultant in providing and maintaining such items.
- 8. CONSIDERATION.**
- 8.1** Consultant shall be compensated for Services performed under a Work Order, based on the Billing Rates Schedule (Agreement Exhibit B), as provided in each Work Order. County shall not be required to pay more than the maximum amount specified in any Work Order, regardless of Consultant's level of effort required to perform the Services.
- 8.2** Compensation payable to Consultant under a Work Order shall be for all labor, material, transportation, insurance, subconsultants, services and work required under this Agreement and the Work Order. Except as otherwise expressly agreed by County, all Consultant costs, including benefits, overtime, travel and reimbursables.
- 8.3** Rates on Billing Rate Schedule shall remain fixed throughout the term of this Agreement.
- 8.4** Except as expressly provided in this Agreement or a Work Order, 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, without limitation, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to any compensation or benefits payable to County employees, including, without limitation, 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.
- 8.5** Consultant shall provide County with a monthly statement, as Services warrant, of fees earned and costs incurred for Services provided during the billing period, which County shall pay within thirty (30) days of the date each statement is approved by 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 Agreement, after subtracting amounts paid to date. All statements 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.
- 8.6** County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is Consultant's sole responsibility. County has no responsibility or liability for payment of Consultant's taxes or assessments.
- 9. REQUIRED LICENSES, CERTIFICATES AND PERMITS.** Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the Services must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect, at no cost to County. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses and certificates, and business licenses.
- 10. INSURANCE.** Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:
- 10.1 General Liability Insurance.** General Liability Insurance, with limits of no less than One Million Dollars (\$1,000,000) combined single limit per incident or occurrence for bodily injury

including personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

- 10.2 Automobile Liability Insurance.** If Consultant or its officers, employees, agents, representatives or subconsultants utilize a motor vehicle in performing any 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.
- 10.3 Professional Liability Insurance.** Professional errors and omissions (malpractice) liability insurance with limits of no less than Two Million Dollars (\$2,000,000) per claim and aggregate. If the policy is a "claims made" policy, such professional liability insurance shall be continued for at least two years following completion of Consultant's Services under this Agreement.
- 10.4 Workers' Compensation Insurance.** Workers' Compensation insurance as required by the California Labor Code. In signing this Agreement, Consultant certifies under Labor Code Section 1861 that Consultant is aware of the provisions of Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of Services under this Agreement.
- 10.5 Deductibles.** Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At County's option, either: (a) the insurer shall reduce or eliminate such deductibles, self insured retentions or named insureds, or (b) Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to 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.
- 10.6 Additional Insured Endorsement.** Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.
- 10.7 Waiver of Right of Subrogation.** Insurance carriers under Consultant's general liability, automobile insurance and Workers' Compensation insurance policies shall waive all rights of subrogation against the Stanislaus County, its officers, directors, agents, employees and volunteers; the Department of Corrections and Rehabilitation of the State of California; the Board of State and Community Corrections, an entity of the state government of the State of California; the State Public Works Board of the State of California, and their officers, agents, and employees.
- 10.8 Consultant's Insurance is Primary.** Consultant's insurance coverage shall be primary insurance regarding County and its officers, directors, agents, employees and volunteers. Any insurance or self-insurance maintained by County or its officers, directors, agents, employees and volunteers, shall be excess of and not contribute with Consultant's insurance.
- 10.9 Notice to be Provided If Insurance is Cancelled.** Each insurance policy required by this section shall be endorsed to state that should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Consultant shall promptly notify, or cause the insurance carrier to promptly notify, County, of any change in the insurance policy or policies required under this Agreement, including, without limitation, any termination or reduction in coverage or in limits.

**10.10 Minimum Rating Requirements.** Insurance shall be placed with California admitted insurers (licensed to do business in California), and (except for Workers' Compensation) have a current rating by Best's Key Rating Guide of no less than A-:VII.

**10.11 Subconsultants shall Maintain Same Levels of Insurance.** Consultant shall require all of its subconsultants to maintain the same types and minimum amounts of insurance stated herein, or shall include all subconsultants as additional named insureds under its insurance policies.

**10.12 Certificates of Insurance.** At least ten (10) days prior to the date Consultant begins performing its obligations under this Agreement, 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 Consultant's subconsultants. 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.

**10.13 Miscellaneous.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to County or its officers, the Board, officials and employees. 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.

## **11. DEFENSE AND INDEMNIFICATION**

**11.1** Consultant shall defend, indemnify and hold harmless County and its officers, directors, agents, employees and volunteers ("Indemnitees"), from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and reasonable attorney fees ("Claims"), arising out of or resulting from negligence or willful misconduct in connection with the performance of this Agreement, by Consultant or its officers, employees, agents or subconsultants, except Consultant shall have no obligation to defend, indemnify or hold harmless County or other Indemnitees for their sole negligence, active negligence, or gross negligence or willful misconduct.

**11.2** Consultant's obligation to defend, indemnify and hold County and other Indemnitees is not limited to or restricted by any requirement in this Agreement for Consultant to procure or maintain insurance.

**11.3** Consultant shall include in all agreements with its subconsultants the defense, indemnity and hold harmless provisions identical to the provisions in this section.

## **12. INDEPENDENT CONTRACTOR**

**12.1** Consultant shall at all times be deemed an independent contractor wholly responsible for the manner in which it performs the Services, and fully liable for the acts and omissions of its employees, subconsultants and agents. Under no circumstances shall this Agreement or any Work Order be construed as creating an employment, agency, joint venture or partnership relationship between County and Consultant, and no such relationship shall be implied from performance of this Agreement. Terms in this Agreement (if any) referring to direction from County shall be construed as providing for direction as to policy and the result of Services only, and not as to means and methods by which such a result is obtained. Consultant shall pay all taxes (including California sales and use taxes) levied upon this Agreement, all Work Orders, or the Services and/or goods delivered pursuant hereto.

**12.2** If in performing this Agreement Consultant utilizes any third persons, they shall be entirely and exclusively under Consultant's direction, supervision and control. Consultant shall determine all retention terms, including, without limitation, hours, wages, working conditions, discipline, hiring and discharging and any other employment term or legal requirement. Consultant shall indemnify and hold 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. Consultant waives any claim or right to any employee benefits that may be offered by County to its employees, including but not limited to any pension benefits.

**12.3** 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.

**12.4** So long as County utilizes the services of Consultant, County agrees not to solicit any Consultant employee for employment with County.

### **13. RECORDS AND AUDIT.**

**13.1** Consultant shall maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four 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.

**13.2** Any authorized County representative shall have access to any such writings, documents and records for audit, evaluation, or examination during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the Services performed or being performed under this Agreement.

**13.3** The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred to County by this section. Such rights shall be specifically enforceable.

**14. NONDISCRIMINATION.** Consultant and its officers, employees, agents, representatives and subconsultants 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. Consultant and its officers, employees, agents, representatives and 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. 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. Consultant further agrees to abide by County's nondiscrimination policy.

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

**16. WAIVERS.** Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Agreement, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel compliance with any provision hereof. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by County and Consultant.

**17. NOTICES.** Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall

be required or may desire to make, shall be in writing and provided by hand delivery, registered or certified mail, return receipt requested, or by overnight courier or delivery service with signature required, as provide below. Notices shall be effective: upon receipt if hand delivered; upon receipt if delivered by overnight courier or delivery service on a regular business day; and three business days after mailing by registered or certified mail, return receipt requested:

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.  
Andrea Coley, Client Liaison  
180 Promenade Circle, Suite 150  
Sacramento, California 95834  
Phone: 916.514.4529  
Fax: 916.725-8242  
[andrea.coley@us.bureauveritas.com](mailto:andrea.coley@us.bureauveritas.com)

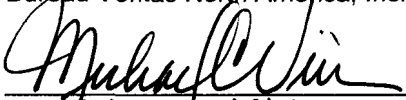
18. **SEVERABILITY.** If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or County statute, ordinance or regulation the remaining provisions of this 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.
19. **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.
20. **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.
21. **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.
22. **GOVERNING LAW AND VENUE.** This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the internal 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.
23. **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 County's reasonable judgment.


**24. 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, except as required by law or court order. 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: Michael Vieira  
Title: DIRECTOR OF OPERATIONS

THE COUNTY OF STANISLAUS

  
Patricia Hill Thomas  
Stanislaus County  
Chief Operations Officer /  
Assistant Executive 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 SERVICES AND PROJECT(S)

The actual services and work (**Services**) to be performed will be determined by Capital Projects staff. Services shall include but not limited to the following areas:

- 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.
- Ascertain whether the construction indicated and described is in accordance with the requirements of the technical codes, all other pertinent laws and ordinances.
- Determine if plans conform to the required strengths, stresses, strains, loads and stability as per the aforementioned laws.
- 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.
- Perform initial plan review and submit comments no later than 15 business days after receipt, and sooner if feasible, to Capital Projects staff.
- Sign the plans if the plans meet applicable code requirements.

Services are expected to be rendered on the following types of County Projects:

**1. Re-Entry and Enhanced Alternatives to Custody Training (REACT) Center Project in Ceres, California**

This Sheriff's Office Adult Detention project will design and construct an adult detention housing and program facility on approximately 3.5 acres of County-owned land at the Public Safety Center, 200 E. Hackett Road, Ceres, California. The REACT Center Project includes secure transitional housing with programming and administrative space. The project includes 288 replacement adult detention transitional housing beds, and all necessary circulation and common space. The project will include parking, drive isle access to the site, storm drainage and landscaping in addition to the 288 new transitional housing beds.

**2. Former Honor Farm Decommissioning and Disposition Project in Modesto, California**

The Sheriff's Office Honor Farm site, located at 8224 West Grayson Road, Modesto, California, was vacated in July 2013, with the completion and opening of the jail bed replacement Unit No. 2 at the Public Safety Center in Ceres, California. The County is currently in escrow with a private party to purchase real property from the County. The County is responsible for certain activities at the vacant site including but not limited to decommissioning the existing Waste Water Treatment Facility (WWTF), selective demolition of structures and other requirements as outlined in the real property Purchase and Sale Agreement.

**3. Sheriff-Coroner's Facility Project in Modesto, California**

The County is currently under construction with a general contractor to remodel County Center III, Building Two in Modesto, California as a Coroner's Facility. The building is a pre-fabricated metal building over concrete slab. Certain demolition, site work and structural activities are required of the County's general contractor.

**4. Crisis Stabilization Unit in Ceres, California**

The County is currently in the design phase to renovate an existing wing of the Stanislaus Recovery Center located at 1904 Richland Avenue, Ceres, California. The Crisis Stabilization Unit (CSU) will provide new client treatment space within 3,776 square feet. A new law enforcement entry turnaround is required with this project, necessitating site related work of trenching, paving and masonry.

**EXHIBIT B**  
**BILLING RATES SCHEDULE**

Principal In Charge	\$185/hour
Director	\$175/hour
Project Manager	\$165/hour
Structural Plan Check Engineer	\$140/hour
M/E/P Plan Check Engineer	\$125/hour
ICC Certified Plans Examiner	\$110/hour
Senior Building Inspector	\$90/hour
Building Inspector	\$80/hour
Permit Technician	\$70/hour
Supervising Plan Review Coordinator	\$75/hour
Plan Review Coordinator	\$70/hour
Clerical	\$65/hour

Except as otherwise expressly agreed by County in an approved Work Authorization, all Consultant costs, including benefits, overtime, travel and reimbursable expenses, are included in the agreed rates, and will not be separately reimbursed. In the event reimbursable expenses are approved, there shall be no markup on such items.



**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 Professional Services Agreement between Stanislaus County and Bureau Veritas North America, Inc. dated May \_\_, 2015 (**Agreement**), the terms and conditions of which are incorporated herein by this reference.
  
2. Description of Services: Provide the following On Call Code Review Services for the [Name of the Project]:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Period of Performance: [Starting to Date to Completion Date], as directed by 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: [\_\_\_\_\_]

CONSULTANT  
Bureau Veritas North America, Inc.

THE COUNTY OF STANISLAUS

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

Phone: 916.514.4503  
Fax: 916.725-8242

Taxpayer ID

#: \_\_\_\_\_

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