

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

DEPT: Chief Executive Office

BOARD AGENDA #: \*B-8

AGENDA DATE: October 25, 2016

**SUBJECT:**

Approval to Enter into Agreements for Construction Inspection Services for the Community Services Facility Heating, Ventilation and Air Conditioning Project and Other Similar Capital Projects

**BOARD ACTION AS FOLLOWS:**

No. 2016-533

On motion of Supervisor Withrow, Seconded by Supervisor O'Brien  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

ATTEST: Elizabeth A. King  
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: Chief Executive Office

BOARD AGENDA #: \*B-8

Urgent  Routine

AGENDA DATE: October 25, 2016

CEO CONCURRENCE: 

4/5 Vote Required: Yes  No

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**SUBJECT:**

Approval to Enter into Agreements for Construction Inspection Services for the Community Services Facility Heating, Ventilation and Air Conditioning Project and Other Similar Capital Projects

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**STAFF RECOMMENDATIONS:**

1. Approve an agreement for Inspector of Record Services with Stewart and Stewart of Modesto, California for the Community Services Facility Heating, Ventilation and Air Conditioning Replacement Project and for On-Call Inspection Services for future Capital Projects.
2. Approve an agreement with the Structure Groups of Modesto, California to provide On-Call Construction Inspection Services.
3. Authorize the Project Manager to finalize and execute agreements with Stewart and Stewart and the Structure Groups.
4. Authorize the Project Manager to issue Notices to Proceed upon receipt of proper insurance from both Contractors.

**DISCUSSION:**

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. Quality control is critical and needed to support these projects. On August 16, 2016, the Board of Supervisors authorized the Chief Operations Officer, acting as the Community Services Facility (CSF) Heating, Ventilation and Air Conditioning (HVAC) Replacement Project Manager, to issue a Request for Proposals (RFP) for On-Call Inspector of Record Services for the project through 2019.

The County received four proposals from inspection companies and invited all four to participate in the interview process on October 7, 2016. Each proposer was evaluated and ranked on the following criteria:

Approval to Enter into Agreements for Construction Inspection Services for the Community Services Facility Heating, Ventilation and Air Conditioning Project and Other Similar Capital Projects

<b>Criteria</b>	<b>Points</b>
Skill and Ability of the Proposer	15
Type of Work Needed by the County	15
Proposers Ability to Perform the Work in the Time Needed by the County	15
Proposers Experience	15
Proposers Performance on Similar Projects	15
Pricing	20
Any other factor County deems relevant, in County's sole discretion.	5
<b>Total Points Possible</b>	<b>100</b>

The four Proposers ranked as follows:

<b>Proposer</b>	<b>Score</b>
Stewart and Stewart, Inc.	99
Structure Groups	95
Bureau Veritas North America, Inc.	93
Iomlan Construction Services	69

Not only is the County needing Inspector of Record Services for the CSF HVAC Replacement Project, the County will also need services for other similar Capital Projects. Current projects include the SB 1022 Re-Entry and Enhanced Alternatives to Custody Training (REACT) Center, Health Services Agency Family Medicine and Pediatrics Remodel, Stanislaus Veterans Center and more.

Given the volume of work the County is currently undertaking, staff is recommending entering into two separate agreements with the highest ranked Proposers, Stewart and Stewart of Modesto, California for Inspector of Record Services at the CSF HVAC Replacement project and the Structure Groups of Modesto, California for On-Call Inspection Services.

**POLICY ISSUE:**

All of the actions in this item will ensure that the County has a quality control process in place that ensures it meets its obligations to agencies that provide oversight on these projects.

**FISCAL IMPACT:**

Included in the CSF HVAC Replacement Project budget is \$150,000 for inspection services. As is the current process, individual work authorizations for future on-call inspection services related to similar Capital Projects, will be funded through existing appropriations for inspections within the project budgets.

Approval to Enter into Agreements for Construction Inspection Services for the Community Services Facility Heating, Ventilation and Air Conditioning Project and Other Similar Capital Projects

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**BOARD OF SUPERVISORS' PRIORITY:**

These actions support the Board's priority to provide Efficient Delivery of Public Services by ensuring critical quality control and oversight of County construction projects occurs on a continuous basis.

**STAFFING IMPACT:**

The Chief Operations Officer serves as the County's Project Manager for the successful delivery of Capital Projects. The agreement for inspection services will provide expertise and support necessary to ensure these projects are delivered in accordance with applicable laws, regulations; and any terms and conditions in the applicable State/County agreements.

**CONTACT PERSON:**

Patricia Hill Thomas, Project Manager, Telephone (209) 525-6333

**ATTACHMENT(S):**

1. Agreement with Stewart and Stewart.
2. Agreement with the Structure Groups.

# Attachment 1

**PROFESSIONAL SERVICES AGREEMENT**  
**(ON CALL INSPECTOR OF RECORD SERVICES)**

This Professional Services Agreement is made and entered into by and between the **County of Stanislaus (County)** and Stewart & Stewart, Inc., 5500 N. Quincy Road, Denair, California 95316 (**Consultant**), on October 25, 2016 (**Agreement**).

**INTRODUCTION**

WHEREAS, County has a need for On Call Inspector of Record 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 the County with On Call Inspector of Record 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 October 31, 2019 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 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 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 Agreement term.

**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 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.**

10.6.1 For Capital Projects: Stanislaus County, its officers, directors, agents, employees and volunteers shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.

10.6.2 For Community Services Facility HVAC only: Stanislaus County, its officers, directors, agents, employees and volunteers; the Stanislaus County Capital Improvements Financing Authority; and the Bank of the West, shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.

10.6.3 For Jail Projects only: 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.**

10.7.1 For Capital Projects: 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.

10.7.2 For Jail Projects only: 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: Stewart & Stewart, Inc.  
Attention: Bruce Stewart  
P.O. Box 397 (US Mail)  
5500 Quincy Road (UPS / FedEx)  
Denair, CA 95316  
Phone: 209.664.0228  
Fax: 209.664.0278

**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.

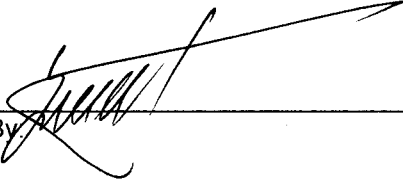
**20. INTEGRATION.** This Agreement is an integrated agreement and constitutes the entire arrangement agreed to by the parties. This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all 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.

STEWART & STEWART, INC.

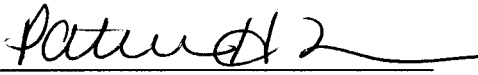
By:  \_\_\_\_\_

Telephone: 209-471-1997

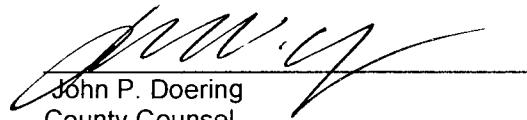
Fax: N/A

Taxpayer ID

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 are not limited to the following areas:

- Provide on-site inspection of work in progress in conformance with the Construction Contract, and as directed by the Construction Manager;
- Provide coordination of testing agency and of code inspections;
- Review of Requests for Information (RFI) in consultation with the Construction Manager;
- Maintain current construction records and documents with RFI's and change orders;
- Review shop drawings in consultation with the Construction Manager;
- Review pay requests and inspect stored materials;
- Attend Weekly Progress meetings;
- Attend Quality Control meetings;
- Advise the Construction Manager upon the issuance of non-compliance orders and sign off upon resolution;
- Manage substantial completion inspections and sign off on corrections;
- Maintain an adequate inspection system and perform such inspections as will ensure that the work conforms to the Contract Documents;
- Maintain complete inspection records and make them available to the Owner;
- Note that the Inspector is prohibited from accepting from the Contractor, his employees, and subcontractors any gratuity, gift, service or material of any value;
- Provide information to the County relating to notices of change, potential claims and claims.
- Owner inspections are for the sole benefit of the Owner and do not:
  - Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
  - Constitute or imply acceptance;
  - Affect the continuing rights of the Owner after acceptance of the completed work to pursue its rights and remedies relating to latent defects, gross mistakes, fraud or the Owner's rights under any warranty or guarantee; or
  - Relieve the Contractor of responsibility for providing adequate quality control measures.
- The presence or absence of an Owner inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Owner's written authorization.
- The Inspector shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections as may be required by the Owner.
- The Inspector shall also provide services in accordance with the typical General Conditions from the Construction Contract Documents.

Any and all Inspector of Record 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.

Consultant shall provide on-call Inspector of Record (IOR) services work for the following Design-Build construction project:

**1. Stanislaus County Community Services Facility HVAC Rooftop Equipment & Controls Replacement Project**

The Community Services Facility HVAC Project is located at 251 East Hackett Road, Modesto, California. The existing two-story building is approximately 250,000 gross square feet (GSF) and the building was built in 1994. The County owned building houses approximately 1,300

employees and 1,200 visitors daily and must remain in operation during normal working hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.). The building houses four County Departments comprised of the Community Services Agency (CSA), Alliance Worknet, Department of Child Support Services (DCSS), Health Services Agency Women and Infant Children (H.S.A.-W.I.C.)

The construction scope will include the removal and replacement of 11 custom built HVAC rooftop direct expansion (DX) units ranging in size from 7,000 to 28,000 cubic feet per minute (CFM). A complete replacement of the HVAC system controls and upgrades to the variable air volume (VAV) zone box controls will be required. The VAV zone heating water valves and the VAV control actuators will also need replaced. The existing HVAC control is a combination of pneumatic and direct digital control. The new HVAC units will be provided with new direct digital controls and will be custom built to fit on existing roof curbs to avoid roofing and structural re-work. The existing complete controls system shall be replaced with a new state of the art direct digital control system that will be graphically displayed on a new building automation system front end that is compatible with existing Stanislaus County systems. The system will also require re-balancing of the HVAC air and water systems.

Additional major equipment the contractor will replace includes:

- Replacement of two Bryant natural gas fired heating hot water boilers, model RV500- W-FD6-WLX-LH with an output of 4,000 million British thermal units per hour (MBTUH), each located on the ground level.
- Replacement of 119 existing fire/smoke pneumatic damper actuators to electric.

Project Duration, Work Days and Hours: Project duration is 272 calendar days from the commencement date estimated to be 9/1/2016. Monday – Friday inclusive, **6:00 p.m. - 6:00 a.m.**, Saturday – Sunday all day local time.

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

Building Inspector	\$75.00 Hourly
Building Inspector Overtime Rate (Monday-Friday)	\$112.50 Hourly
Building Inspector Overtime Rate (Saturdays)	\$112.50 Hourly
Building Inspector Overtime Rate(Sunday)	\$150.00 Hourly

]

Except as otherwise expressly agreed by County, all Consultant costs, including benefits, overtime, travel and reimbursable, are included in the agreed rates, and will not be separately reimbursed.



**WORK AUTHORIZATION FOR ON CALL INSPECTOR OF RECORD 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 [Name of Consultant] dated [\_\_\_\_\_] (**Agreement**).
2. Description of Services: Provide On Call Inspector of Record 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: [\_\_\_\_\_]

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

\_\_\_\_\_  
**Stewart & Stewart, Inc.**

# Attachment 2

**PROFESSIONAL SERVICES AGREEMENT**  
**(ON CALL INSPECTOR OF RECORD SERVICES)**

This Professional Services Agreement is made and entered into by and between the **County of Stanislaus (County)** and **Structure Groups**, 2352 Research Drive, Livermore, California, 94550 (**Consultant**), on October 25, 2016 (**Agreement**).

**INTRODUCTION**

WHEREAS, County has a need for On Call Inspector of Record 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 Inspector of Record 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 October 31, 2019 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 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 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 Agreement term.

**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 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.**

10.6.1 For Capital Projects: Stanislaus County, its officers, directors, agents, employees and volunteers shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.

10.6.2 For Community Services Facility HVAC only: Stanislaus County, its officers, directors, agents, employees and volunteers; the Stanislaus County Capital Improvements Financing Authority; and the Bank of the West, shall be named as additional insureds by separate endorsement on Consultant's general liability, automobile, and workers compensation insurance policies.

10.6.3 For Jail Projects only: 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.**

10.7.1 For Capital Projects: 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.

10.7.2 For Jail Projects only: 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: Structure Groups  
Elizabeth Clarke  
2352 Research Drive  
Livermore, CA 94550  
Phone: 925.447.9900  
Fax: 925.447.9901

- 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.

STRUCTURE GROUPS

THE COUNTY OF STANISLAUS

By: Elizabeth Clarke

Patricia Hill Thomas

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

Telephone: 95.447.9900

Fax: 95.447.9901

Taxpayer ID

Approved as to form:

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

John P. Doering  
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 are not limited to the following areas:

- Provide on-site inspection of work in progress in conformance with the Construction Contract, and as directed by the Construction Manager;
- Provide coordination of testing agency and of code inspections;
- Review of Requests for Information (RFI) in consultation with the Construction Manager;
- Maintain current construction records and documents with RFI's and change orders;
- Review shop drawings in consultation with the Construction Manager;
- Review pay requests and inspect stored materials;
- Attend Weekly Progress meetings;
- Attend Quality Control meetings;
- Advise the Construction Manager upon the issuance of non-compliance orders and sign off upon resolution;
- Manage substantial completion inspections and sign off on corrections;
- Maintain an adequate inspection system and perform such inspections as will ensure that the work conforms to the Contract Documents;
- Maintain complete inspection records and make them available to the Owner;
- Note that the Inspector is prohibited from accepting from the Contractor, his employees, and subcontractors any gratuity, gift, service or material of any value;
- Provide information to the County relating to notices of change, potential claims and claims.
- Owner inspections are for the sole benefit of the Owner and do not:
  - Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
  - Constitute or imply acceptance;
  - Affect the continuing rights of the Owner after acceptance of the completed work to pursue its rights and remedies relating to latent defects, gross mistakes, fraud or the Owner's rights under any warranty or guarantee; or
  - Relieve the Contractor of responsibility for providing adequate quality control measures.
- The presence or absence of an Owner inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Owner's written authorization.
- The Inspector shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections as may be required by the Owner.
- The Inspector shall also provide services in accordance with the typical General Conditions from the Construction Contract Documents.

Any and all Inspector of Record 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	\$160.00
Director	\$135.00
Senior Plans Examiner	\$120.00
Plans Examiner	\$110.00
Senior Building Inspector	\$95.00
Building Inspector with 6 + years of experience	\$90.00
Junior Inspector with 2 to 5 years of experience	\$85.00
Supervising Plan Review Coordinator	\$90.00
Plan Review Coordinator	\$65.00
Clerical Staff	\$45.00

Overtime Rates- Overtime rates are incorporated into the standard rates and will not be billed separately, except as expressly agreed to by the County

Except as otherwise expressly agreed by County, all Consultant costs, including benefits, overtime, travel and reimbursable, are included in the agreed rates, and will not be separately reimbursed.

**WORK AUTHORIZATION FOR ON CALL INSPECTOR OF RECORD 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 [Name of Consultant] dated [\_\_\_\_\_] (**Agreement**).
2. Description of Services: Provide On Call Inspector of Record 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: [\_\_\_\_\_]

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

\_\_\_\_\_  
**Name of Consultant**