

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

DEPT: Public Works

BOARD AGENDA #: \*C-4

AGENDA DATE: September 19, 2017

**SUBJECT:**

Approval of Professional Design Services Master Agreements with Wallace-Kuhl & Associates, BSK Associates, and Engeo Incorporated to Provide On-Call Materials Testing for Three Years Beginning October 1, 2017 and Ending September 30, 2020

**BOARD ACTION AS FOLLOWS:**

No. 2017-504

On motion of Supervisor Withrow, Seconded by Supervisor Monteith  
and approved by the following vote.

Ayes: Supervisors: Olsen, Withrow, Monteith, DeMartini, and Chairman Chiesa

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:

  
PAM VILLARREAL, Assistant Clerk

File No.

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

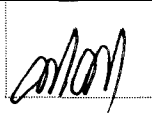
DEPT: Public Works

Urgent

Routine

BOARD AGENDA #: \*C-4

AGENDA DATE: September 19, 2017



CEO CONCURRENCE:

4/5 Vote Required: Yes  No

---

**SUBJECT:**

Approval of Professional Design Services Master Agreements with Wallace-Kuhl & Associates, BSK Associates, and Engeo Incorporated to Provide On-Call Materials Testing for Three Years Beginning October 1, 2017 and Ending September 30, 2020

---

**STAFF RECOMMENDATIONS:**

1. Approve Professional Design Services Master Agreements with Wallace-Kuhl & Associates, BSK Associates, and Engeo Incorporated, to provide on-call materials testing for three years beginning October 1, 2017 and ending September 30, 2020, each agreement at an amount not to exceed \$375,000.
2. Authorize the Director of Public Works to sign the agreements and any extensions up to one year if deemed necessary and mutually beneficial, including any amendments to the agreement, not to exceed 10%.
3. Authorize the Director of Public Works to take any appropriate action necessary to carry out the purpose and intent of these recommendations.

**DISCUSSION:**

Material testing on roadwork construction is an integral function of a project; it certifies contractors are providing quality construction materials which meet the minimum requirements in the approved plans and specifications. The cost of material testing varies based on the testing requirements and the type, size, and location of the project. The Public Works Department adheres to the California Department of Transportation (Caltrans) guidelines to determine the amount and type of testing necessary for a specific project.

In anticipation of upcoming construction in years 2017 through 2020, Public Works issued a Request for Proposal in June of 2017 for material testing services to several material testing firms in the area.

On July 28, 2017, five proposals were submitted for review. All proposals were evaluated based on qualifications only. Along with the proposal, consultant fees were submitted in a separate sealed fee envelope and were not part of the evaluation process. A sealed fee envelope was opened only for the most qualified proposal. Below is a list of consulting firms that submitted proposals:

Approval of Professional Design Services Master Agreements with Wallace-Kuhl & Associates, BSK Associates, and Engeo Incorporated to Provide On-Call Materials Testing for Three Years Beginning October 1, 2017 and Ending September 30, 2020

---

- ENGEO
- BSK Associates
- Ninyo and Moore
- Wallace-Kuhl Associates
- Terracon

Proposals were evaluated based on the following evaluation criteria:

- Understanding of the work to be done;
- Experience with similar kinds of work;
- Quality of staff for work to be done;
- Demonstrated ability to follow Local Area Procedures Manual/Construction Manual in administration of Federal Aid Projects;
- Financial responsibility; and,
- Demonstrated technical ability.

After review of the proposals, Public Works staff ranked them based on the above criteria in the following order.

<u>Ranking</u>	<u>Consultant</u>
1	Wallace-Kuhl & Associates
2	BSK Associates
3	Engeo Incorporated
4	Terracon Consultants, Inc.
5	Ninyo & Moore

Public Works staff recommends approving Professional Design Services Master Agreements with Wallace-Kuhl & Associates, BSK Associates, and Engeo Incorporated, as the most qualified consultant based on the results of the evaluation criteria.

The use of three different firms for testing services for all County projects ensures timely responses for field visits, sampling as needed, and testing if one firm were to be backed up with other non-County projects.

The three Professional Design Services Master Agreements will commence on October 1, 2017 and will expire on September 30, 2020, unless extended by mutual agreement for up to one year.

**POLICY ISSUE:**

Government Code section 23005 and 25502.5 requires Board of Supervisors' approval for all contracts exceeding \$100,000.

Approval of Professional Design Services Master Agreements with Wallace-Kuhl & Associates, BSK Associates, and Engeo Incorporated to Provide On-Call Materials Testing for Three Years Beginning October 1, 2017 and Ending September 30, 2020

---

**FISCAL IMPACT:**

The amounts assigned to each of these agreements with Wallace-Kuhl & Associates, BSK Associates and Engeo Incorporated for material testing services will depend upon the individual projects and their specific requirements. Each separate project will fund their share of testing. Funds for testing services will be authorized and transferred at the project's Board approval or award phase of the construction contract. These funds shall not exceed the maximum \$375,000 budgeted for each individual agreement over the thirty-six month period or through September 2020. Funding for the anticipated projects is available in the Fiscal Year 2017-2018 Public Works Projects Budget.

**BOARD OF SUPERVISORS' PRIORITY:**

The recommended actions are consistent with the Board's priorities of providing A Safe Community, A Healthy Community, and A Well-Planned Infrastructure System by ensuring quality materials and workmanship are utilized on Public Works Projects.

**STAFFING IMPACT:**

Existing Public Works staff is overseeing this project.

**CONTACT PERSON:**

Matt Machado, Public Works Director  
David Leamon, Deputy Director

Telephone: (209) 525-4153  
Telephone: (209) 525-4151

**ATTACHMENT(S):**

1. Wallace-Kuhl & Associates, Professional Design Services Master Agreement
2. BSK Associates, Professional Design Services Master Agreement
3. Engeo Incorporated, Professional Design Services Master Agreement

A

ATTACHMENT 1

WALLACE-KUHL & ASSOCIATES, PROFESSIONAL DESIGN SERVICES MASTER  
AGREEMENT

## STANISLAUS COUNTY

### PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT FOR ON-CALL MATERIALS TESTING SERVICES

THIS MASTER AGREEMENT, hereinafter referred to as "Agreement" is made and entered into on this 19th day of September, 2017, by and between the COUNTY OF STANISLAUS, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and WALLACE-KUHL AND ASSOCIATES, hereinafter referred to as "CONSULTANT".

#### Scope of Services

On-Call Materials Testing Services

#### Consultant's Compensation

Not to exceed \$375,000

#### Start Date – End Date

October 1, 2017 to September 30, 2020

#### Contract Provisions

Section 1: Caltrans Mandatory Fiscal and Federal Provisions

Section 2: Stanislaus County Provisions

Exhibit A: Fee Schedule

Exhibit B: Insurance Requirements

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

## **SECTION 1**

### **CALTRANS MANDATORY FISCAL & FEDERAL PROVISIONS**

#### **Article IV Performance Period**

A. This contract shall go into effect on OCTOBER 1, 2017, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The contract shall end on SEPTEMBER 30, 2020, unless extended by contract amendment.

B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

#### **Article V Allowable Costs and Payments**

A. The method of payment for this contract will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY'S approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.

B. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$375,000. The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.

C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

D. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.

F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.

G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billed. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

David Leamon, Deputy Director  
Stanislaus County Public Works  
1716 Morgan Road  
Modesto, CA 95358

H. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$375,000.

I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.

J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

#### **Article VI Termination**

A. LOCAL AGENCY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.

B. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the



manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

C. The maximum amount for which the LOCAL AGENCY shall be liable if this contract is terminated is \$375,000 dollars.

#### **Article VII Cost Principles and Administrative Requirements**

A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

B. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments.

C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.

All subcontracts in excess of \$25,000 shall contain the above provisions.

#### **Article VIII Retention of Records**

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and LOCAL AGENCY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, LOCAL AGENCY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

**Article IX    Audit Review Procedures**

A.     Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.

B.     Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C.     Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this contract.

D.     CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

**Article X    Subcontracting**

A.     Nothing contained in this contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.

B.     CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract

shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.

D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.

E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

#### **Article XI Equipment Purchase**

A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

C. Any equipment purchased as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

**Article XII State Prevailing Wage Rates**

A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.

B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.

C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

**Article XIII Conflict of Interest**

A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.

B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

C. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

D. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

**Article XIV Rebates, Kickbacks or Other Unlawful Consideration**

CONSULTANT warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall

have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**Article XV Prohibition of Expending Local Agency, State, or Federal Funds for Lobbying**

A. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative Contract.

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative Contract; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

**Article XVI Statement of Compliance**

A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program

requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the 5 applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full.

Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Contract.

C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

D. The Consultant, with regard to the work performed by it during the Contract shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Contract covers a program whose goal is employment.

**Article XVII Debarment and Suspension Certifications**

A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government

wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to LOCAL AGENCY.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

## **SECTION 2**

### **STANISLAUS COUNTY PROVISIONS**

#### **PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT FOR ON-CALL MATERIALS TESTING SERVICES**

##### **1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT**

**1.1 Scope of Services:** Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") and Consultant's Response to County's RFP (the "Response") which are incorporated by reference in Section 2.0 entitled "Contract Documents".

Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of services does not exceed \$100,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$100,000 shall be approved by resolution of the Board of Supervisors for the County.

**1.2 Professional Practices:** All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

**1.3 Representations:** Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth in Section 3.1 - Compensation. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services.

**1.4 Compliance with Laws:** Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

**1.5 Non-Discrimination:** During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment 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 disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. Consultant and its officers, employees, agents, representatives or subconsultants shall comply with all



applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

**1.6 Non-Exclusive Agreement:** Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

**1.7 Delegation and Assignment:** This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subconsultant(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

**1.8 Subcontracting:** Nothing contained in this contract or otherwise, shall create any contractual relation between County and any subconsultants(s), and no subconsultant shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to County for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from County's obligation to make payments to the Consultant.

Consultant shall perform the services with resources available within its own organization; and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by the County, except that, which is expressly identified in the approved Cost Proposal.

Any substitution of subconsultants must be approved in writing by the County.

**1.9 Conflict of Interest:** Consultant shall disclose any financial, business, or other relationship with County that may have an impact upon the outcome of this agreement, or any ensuing County construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this agreement, or any ensuing County construction project, which will follow.

Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

Consultant hereby certifies that neither Consultant, nor any firm affiliated with the Consultant will bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement. An affiliated firm is one, which is subject to the control of the same persons through joint ownership, or otherwise.

Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this

agreement shall be eligible to bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement.

**1.10 Covenant Against Contingent Fees:** Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**1.11 Rebates, Kickbacks or Other Unlawful Consideration:** The Consultant warrants that this agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any County employee. For breach or violation of this warranty, County shall have the right in its discretion; to terminate the agreement without liability; to pay only for the value of the work actually performed; or to deduct from the agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**1.12 Prohibition of Expending State or Federal Funds for Lobbying:** The Consultant certifies to the best of his or her knowledge and belief that:

No, state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of the Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency, a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

**1.13 Debarment and Suspension Certification:** The Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the Consultant has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct with the past three (3) years. Any exceptions to this certification must be disclosed to the County.

Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to who exceptions apply, initiating agency, and dates of actions.

## **2.0 CONTRACT DOCUMENTS**

Contract documents consist of the following documents, including all changes, addenda, and modifications thereto:

1. Agreement and all attachments
  - a. Exhibit A – Fee Schedule
  - b. Exhibit B – Insurance Requirements
2. County's Request for Proposal
3. Consultant's Response

## **3.0 COMPENSATION AND BILLING**

**3.1 Compensation:** For each task or project let under this Agreement Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "A", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subconsultants at the hourly rates specified in the Fee Schedule. Fee Schedule rates shall include direct salary costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. Consultant's compensation under this Agreement shall in no case exceed Three Hundred Seventy-Five Thousand Dollars (\$375,000) during the term of this Agreement.

The County may retain five percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

**3.2 Reimbursements:** In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for

reimbursement shall be accompanied by a copy of the original invoice.

**3.3 Additional Services:** Consultant shall not receive compensation for any services provided outside the scope of services specified in the County's ("RFP") and the Consultant's ("Response") and also as specified in each project scope of services unless the County or the Project Manager for the project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

**3.4 Method of Billing:** Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

**3.5 Records and Audits:** Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County, its Project Manager, The State, State Auditor, FHWA, or any duly authorized representative of the Federal Government for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

**3.6 Extension of Term of Agreement:** The original Fee Schedule shall apply to the extension of the term of the agreement unless renegotiated and approved by both parties in writing.

**3.7 Cost Principles:** The Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.

The Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to the County.

All subcontracts in excess of \$25,000 shall contain the above provisions.

#### **4.0 TIME OF PERFORMANCE**

**4.1 Commencement and Completion of Work:** The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed for each separately approved Project. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in each Project Scope of Services. Each Project Schedule may be amended by mutual agreement of the

parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

**4.2 Excusable Delays:** Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

**4.3 Completion of Agreement:** This Agreement shall be completed no later than September 30, 2020, unless extended by amendment.

## **5.0 TERM OF CONTRACT AND TERMINATION**

**5.1 Term:** This Agreement shall commence on the date of the award of this agreement and shall continue for a period of thirty-six months, or until all work on each project let during the thirty-six month period is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Additionally, the term of this agreement may be extended for an additional twenty-four months by the parties mutual agreement.

**5.2 Notice of Termination:** The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

**5.3 Compensation:** In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "A". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

**5.4 Documents:** In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps, reports, correspondence, and all electronic files shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

## 6.0 INSURANCE REQUIREMENTS

6.1 **Coverage Required:** Contractor shall obtain, and maintain at all times during the term of this Agreement, insurance coverage in the amounts and coverage specified in the attached "Exhibit B."

## 7.0 INDEMNIFICATION

7.1 **Indemnification:** To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnitee") from and against any and all claims, suits, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, (collectively, "losses") which are founded upon, arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subconsultants, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the County, its agents, employees, and representatives. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

7.2 **Duty to Defend:** The duty of Consultant to indemnify and save harmless as set forth herein, shall include both the duty to indemnify and at Consultant's own cost and expense the duty to defend as set forth in Section 2778 of the California Civil Code and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

7.3 **Duty to Cooperate:** Each party shall notify the other party within ten (10) days in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement. Specifically, Consultant shall take all steps necessary to assist the County in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

7.4 **Patent Rights:** Consultant represents that professional services provided by Consultant pursuant to this Agreement does not infringe on any other copyrighted work. Consultant shall defend, indemnify and hold harmless the County from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the County of any articles or services supplied under this agreement.

The foregoing provisions in this section "Indemnification" shall survive the term and termination of this Agreement.

## 8.0 GENERAL PROVISIONS

**8.1 Entire Agreement:** This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

**8.2 Representatives:** The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

**8.3 Project Managers:** County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

**8.4 Removal of Personnel or Sub-Consultants:** If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

**8.5 Notices:** Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:                    David Leamon, Deputy Director  
Stanislaus County Public Works  
1716 Morgan Road  
Modesto, CA 95358

If to Consultant:                David T. Hunn, Senior Engineer  
Wallace-Kuhl & Associates  
3422 West Hammer Lane, Suite D  
Stockton, CA 95219

**8.6 Attorneys' Fees:** In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

**8.7 Claims Filed by County's Construction Contractor:** If claims are filed by County's construction contractor relating to work performed by Consultant's personnel, and additional information or assistance from Consultant's personnel is required in order to evaluate or defend against such claims; Consultant agrees to make its personnel available for consultation with County's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

Consultant's personnel that County considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from County. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for Consultant's personnel services under this contract.

**8.8 Governing Law:** This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

**8.9 Assignment:** Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

**8.10 Independent Contractor:** Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

**8.11 Confidentiality:** The Consultant agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

Permission to Disclose information on one occasion, or public hearing held by the County relating to the contract, shall not authorize the Consultant to further disclose such information, or disseminate the same on any other occasion.



The Consultant shall not comment publicly to the press or any other media regarding the contract or the County's actions on the same, except to the County's staff, Consultant's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.

The Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the County, and receipt of the County's written permission.

Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

**8.12 National Labor Relations Board Certification:** In accordance with Public Contract Code Section 10296, Consultant hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant with the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

**8.13 Ownership of Documents:** Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

**8.14 Reuse of Design Documents:** Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

**8.15 Public Records Act Disclosure:** Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subconsultants, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

**8.16 Responsibility for Errors:** Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

**8.17 Order of Precedence:** In the event of inconsistency among any of the Contract Documents, the following order of precedence applies:

1. This agreement shall prevail over all other documents;
2. The attachments to this agreement shall prevail over the RFP and Response;
3. The RFP shall prevail over the Response; and,
4. Section 2/Stanislaus County Provisions shall prevail over Section 1/Caltrans Mandatory Fiscal & Federal Provisions.

**8.18 Costs:** Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

**8.19 No Third Party Beneficiary Rights:** This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

**8.20 Construction:** The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

**8.21 Amendments:** This Agreement may be amended only by a writing executed by the parties hereto or their respective successors and assigns.

**8.22 Waiver:** The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

**8.23 Severability:** If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the

offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

**8.24 Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.


**8.25 Corporate Authority:** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

WALLACE-KUHL & ASSOCIATES

By:   
Matt Machado, Director  
Department of Public Works

By:   
David R. Gius, Jr., GE, CEG  
President / Principal Engineer

APPROVED AS TO FORM:  
John P. Doering  
County Counsel

By:   
Amanda DeHart  
Deputy County Counsel

**EXHIBIT A**  
**FEE SCHEDULE**

## RFP WORKSHEET FOR TESTING & INSPECTION SERVICES

Testing & Inspection services may include, but not be limited to the following items:

TEST NO.	TESTING / INSPECTION SERVICE DESCRIPTION	PRICE PER TEST (\$)	TURN AROUND TIME (DAYS)
1	HOURLY RATE FOR SOIL TECHNICIAN CALTRANS I.A. CERTIFIED WITH NUCLEAR DENSITY GAUGE	\$100.00/hr.	Preliminary Report left on-site
2	HOURLY RATE FOR A.C.I. FIELD TESTING TECHNICIAN – GRADE 1	\$95.00/hr.	Preliminary Report left on-site
3	HOURLY RATE FOR ASPHALT TECHNICIAN CALTRANS I.A. CERTIFIED	\$100.00/hr.	Preliminary Report left on-site
4	HOURLY RATE FOR I.C.B.O. / A.W.S. SPECIAL INSPECTOR (CONCRETE / MASONRY / WELDING)	\$100.00/hr.	Preliminary Report left on-site
5	FIELD COMPACTION TESTS USING CALIFORNIA 231 TEST METHOD (NUCLEAR GAUGE TESTING WITH MINIMUM OF 3 NUCLEAR SHOTS PER TEST INCLUDING MOISTURE – ROAD WORK)	\$100.00/hr.	Preliminary Report left on-site
6	LABORATORY COMPACTION TEST USING CALIFORNIA 216 TEST METHOD (PART II MAX WET DENSITY & PERCENT RELATIVE COMPACTION)	\$240.00 each	1 Day
7	AGGREGATE TESTING USING CALIFORNIA 202 METHOD OF TESTS FOR SIEVE ANALYSIS OF FINE AND COURSE AGGREGATES)	\$100.00 each	1 Day
8	AGGREGATE TESTING USING CALIFORNIA 205 METHOD FOR DETERMINING PERCENTAGE OF CRUSHED PARTICLES	\$115.00/size	3 Days
9	SAND EQUIVALENT USING CALIFORNIA 217 TEST METHOD (1 pt.)	\$85.00 each	3 Days
10	BULK SPECIFIC GRAVITY & DENSITY OF BITUMINOUS MIXTURES USING CALIFORNIA 308 TEST METHOD (1 pt.))	\$95.00 each	2 Days
11	DETERMINATION OF ASPHALT BINDER CONTENT FO BITUMINOUS PAVING MIXTURES BY THE IGNITION METHOD USING CALIFORNIA 382 TEST METHOD	\$240.00 each	1 Day
12	RESISTANCE "R" VALUE OF TREATED AND UNTREATED BASES, SUBBASES, AND BASEMENT SOILS BY THE STABILOMETER TEST USING CALIFORNIA 301 TEST METHOD	\$245.00 untreated \$300.00 treated	3 Days 3 Days
13	GRAB BAG SOIL SAMPLING PICKUP (UP TO 75 POUNDS) WITHIN STANISLAUS COUNTY – PER SITE (EACH)	\$200.00	2 hour roundtrip
14	ASTM D6938-8, "STANDARD TEST METHOD FOR IN-PLACE DENSITY & WATER CONTENT OF SOIL & SOIL-AGGREGATE BY NUCLEAR METHODS	\$100.00 each	Preliminary Report left on-site
15	ASTM D1557-07, "STANDARD TEST METHODS FOR LABORATORY COMPACTION CHARACTERISTICS OF SOIL USING MODIFIED EFFORT"	\$240.00 each	1 Day
16	SAMPLING FRESH CONCRETE USING CALIFORNIA 539 TEST METHOD; AND MAKING HANDLING, AND STORING CONCRETE COMPRESSIVE TEST SPECIMENS IN THE FIELD USING CALIFORNIA 540 TEST METHOD	\$95.00 each	Preliminary Report left on-site



## RFP WORKSHEET FOR TESTING & INSPECTION SERVICES

TEST NO.	TESTING / INSPECTION SERVICE DESCRIPTION	PRICE PER TEST (\$)	TURN AROUND TIME (DAYS)
17	CONCRETE CYLINDER PICKUP PER SET OF CYLINDERS WITHIN STANISLAUS COUNTY (EACH)	\$190.00 each	0
18	CALTRANS TEST METHOD 366, "STABILOMETER VALUE" (1 point)	\$125.00 each	1 Day
19	CALTRANS TEST METHOD 367, "OPTIMUM BITUMEN CONTENT"	\$680.00/report	1 Day
20	CALTRANS TEST METHOD 370, "MOISTURE CONTENT OF BITUMINOUS MIXTURES OR GRADED MINERALS AGGREGATES USING MICROWAVE OVENS"	\$25.00 each	1 Day
21	CALTRANS TEST 375, "RELATIVE COMPACTION OF ASPHALT CONCRETE IN PLACE"	\$350.00 each	Preliminary Report left on-site
22	<del>CALTRANS TEST 202, "SIEVE ANALYSIS OF FINE AND COARSE-AGGREGATES"</del>		
23	ASTM D4318, "PLASTICITY INDEX"	\$150.00 each	2 Days
24	ASTM D422, "SIEVE ANALYSIS OF SOIL"	\$160.00 each	1 Day
25	CALTRANS TEST METHOD 382, "ASPHALT DETERMINATION OF ASPHALT BINDER CONTENT OF BITUMINOUS PAVING MIXTURES BY THE IGNITION METHOD"	\$240.00 each	1 Day
26	CHEMICAL TESTING OF TREATED AND UNTREATED SOILS AND AGGREGATE BASES; ASTM TEST METHOD D2170; "KINEMATIC VISCOSITY"; ASTM TEST METHOD 2171, "ABSOLUTE VISCOSITY"; AND ASTM D5, "PENETRATION"	2170 - \$180.00 2171 - \$180.00 D5 - \$150.00	3 Days
27	PERCOLATION TESTING TO DETERMINE SOIL'S PERCOLATION RATE (FOR TRENCH AND BED PERCOLATION)	\$1500.00 each	5 Days
28	CALTRANS TEST 521 – METHOD OF TEST FOR COMPRESSIVE STRENGTH OF MOLDED CONCRETE CYLINDERS	\$25.00 each	1 Day





**CORPORATE OFFICE**  
3050 Industrial Boulevard  
West Sacramento, CA 95691  
916.372.1434 phone  
916.372.1565 fax

**STOCKTON OFFICE**  
3422 West Hammer Lane, Suite D  
Stockton, CA 95219  
209.234.7722 phone  
209.234.7727 fax

## 2017 Prevailing Wage Schedule of Fees

PROFESSIONAL SERVICES

PROFESSIONAL SERVICES

Principal Engineer / Geologist	\$170.00	per hour
Senior Engineer / Geologist	\$170.00	per hour
Senior Environmental Scientist	\$170.00	per hour
Project Engineer / Geologist	\$140.00	per hour
Project Environmental Scientist	\$140.00	per hour
Senior Staff Engineer / Geologist	\$130.00	per hour
Senior Staff Environmental Scientist	\$130.00	per hour
Staff Engineer / Geologist	\$125.00	per hour
Staff Environmental Scientist	\$125.00	per hour
Senior Environmental Technician	\$100.00	per hour
Senior / Supervising Technician	\$100.00	per hour
Draftsperson / GIS Technician	\$95.00	per hour
Administrative Assistant	\$75.00	per hour

FIELD INVESTIGATION TESTING

Seismic Refraction Survey	\$170.00	per hour
Thermal Resistivity Testing	\$170.00	per hour
Electrical Resistivity Survey	\$170.00	per hour
Hand Augering/Sampling - Engineer	\$150.00	per hour
Photoionization Detector	\$170.00	per hour
Rebar Location / GPR	\$285.00	per hour

LITIGATION

Data Review/Consultation	\$240.00	per hour
Depositions/Expert Witness Testimony	\$350.00	per hour

EXPENSES

Vehicle Charges <i>(Subject to periodic adjustment due to fuel cost)</i>	\$0.75	per mile
Subsistence	\$55.00	per day
Lodging	Cost	
Services by Associate Firms and other outside services	Cost	plus 20%
Equipment rental, freight, special materials	Cost	plus 20%
Extra Report Copies		
Black and white versions	\$25.00	each
Color photography versions	\$35.00	each

PREMIUM CHARGES

Overtime and Saturdays	hourly rate plus	40	percent
Sunday and Holidays	hourly rate plus	75	percent

SHIFT DIFFERENTIAL

A 25 percent shift differential surcharge will be added to the hourly rate of personnel involved in scheduled testing work between the hours of 6 P.M. and 5 A.M., as well as a four hour minimum.





**FIELD SERVICES**

**CONCRETE & REINFORCING STEEL**

Ball Penetration (Kelly Ball)	\$125.00 /hr.
Batch Plant Inspection	\$95.00 /hr.
CaCl Moisture Emission Test Kit	\$32.00 /kit
CaCl Moisture Emission Testing	\$90.00 /hr.
CLSM/CDF/Slurry Testing	\$90.00 /hr.
Concrete Mix Design Review	\$170.00 /hr.
Concrete Placement Obs/Cast Cylinder	\$95.00 /hr.
Concrete Rebound Number Testing	\$125.00 /hr.
Concrete Trial Batch	\$95.00 /hr.
Floor Flatness Testing	\$125.00 /hr.
High Strength Grout Sampling / Testing	\$95.00 /hr.
Rebar / Post Tension Special Inspection	\$100.00 /hr.
Rebar Location / GPR	\$285.00 /hr.
Rebar Location / Pachometer	\$125.00 /hr.
Rebar Placement Inspection	\$100.00 /hr.
Reinforcing Steel Sampling/Tagging	\$95.00 /hr.
Relative Humidity Testing	\$125.00 /hr.
Shotcrete Special Inspection	\$95.00 /hr.
Transport Cylinders / Samples to Lab	\$95.00 /hr.

**SOILS & ASPHALT CONCRETE**

Asphalt Concrete Inspection / Testing	\$100.00 /hr.
Asphalt Concrete Materials Sampling	\$100.00 /hr.
Building Pad Special Inspection / Testing	\$100.00 /hr.
Deep Foundation Inspection	\$100.00 /hr.
Flatwork AB Inspection / Testing	\$100.00 /hr.
Flatwork Subgrade Inspection / Testing	\$100.00 /hr.
Grading Inspection / Testing	\$100.00 /hr.
Hand Augering and Sampling	\$130.00 /hr.
Pavement AB Inspection / Testing	\$100.00 /hr.
Pavement Subgrade Inspection / Testing	\$100.00 /hr.
Proof Rolling Observation	\$100.00 /hr.
Shallow Foundation Inspection	\$100.00 /hr.
Slab Subgrade Soil Moisture Tests	\$100.00 /hr.
Soil / Aggregate Sampling	\$100.00 /hr.
Soil Treatment Testing / Observation	\$100.00 /hr.
Structure Backfill Inspection / Testing	\$100.00 /hr.
Subgrade Stabilization Observation	\$100.00 /hr.
Utility Trench Backfill Testing	\$100.00 /hr.
WKA Drill Rig (including operator)	\$270.00 /hr.
WKA Drill Rig (helper)	\$100.00 /hr.

**CORING**

Coring (Technician + equipment)	\$125.00 /hr.
Coring (Technician assistant)	\$95.00 /hr.

**POST-INSTALLED ANCHORS**

Concrete Anchor Installation Inspection	\$95.00 /hr.
Concrete Anchor Proof Load Testing	\$125.00 /hr.
Concrete Anchor Torque Testing	\$100.00 /hr.
Suspended Ceiling Inspection / Testing	\$125.00 /hr.

**STRUCTURAL STEEL**

Fireproofing Special Inspection / Testing	\$95.00 /hr.
High Strength Bolt Special Inspection	\$100.00 /hr.
Non-Destructive Testing - UT/MT/PT	\$110.00 /hr.
Tower Certified Special Inspector	\$125.00 /hr.
Welding Special Inspection - Field	\$100.00 /hr.
Welding Special Inspection - Shop	\$100.00 /hr.

**MASONRY**

In-Place Masonry Flatjack Testing	\$150.00 /hr.
In-Place Masonry Shear Testing	\$125.00 /hr.
Masonry Materials Sampling / Testing	\$95.00 /hr.
Masonry Special Inspection	\$95.00 /hr.
Masonry Special Inspection DSA Cert.	\$105.00 /hr.

**SPECIALIZED SERVICES**

Coefficient of Friction Testing	\$130.00 /hr.
Crack Monitoring	**
Existing Building Evaluation / Demo	\$95.00 /hr.
Existing Building Evaluation / Document	\$95.00 /hr.
Existing Building Evaluation / Repair	\$95.00 /hr.
Field Investigate Support	\$95.00 /hr.
FRP Installation Inspection	\$95.00 /hr.
GFRC Inspection / Testing	\$95.00 /hr.
Soil Elect. Resistivity Testing - Technician	\$130.00 /hr.
Prestress Framing Installation	\$95.00 /hr.
Proto Wall Inspection / Testing	\$95.00 /hr.
Roofing Inspection	\$95.00 /hr.
Shear Nailing Inspection	\$95.00 /hr.
Thickness Testing - Coating / Steel	\$125.00 /hr.
Timber Framing / Hardware Inspection	\$95.00 /hr.
Vapor Barrier Inspection	\$95.00 /hr.
Vibration Monitoring	**

**GENERAL**

Inspection / Testing Cancelled	*
Reinspection / Retesting	*
Stand-by Time	*

\* Based on hourly rate of Inspection or Testing scheduled

\*\* Based on Staff Classification

**MINIMUM CHARGES**

A two hour minimum charge will apply to field technician services with the following exceptions:

- a) Single trip pickup and delivery services, where a one hour minimum will apply.
- b) Saturday, Sunday and holidays, where a four hour minimum charge will apply.



LABORATORY SERVICES

SOIL

Atterberg Limits (LL/PI)	ASTM D4318	\$150.00	each
CLSM/CDF/Soil Cement Compression Test	ASTM D4832	\$50.00	each
Compaction Characteristics	ASTM D698	\$240.00	each
Compaction Characteristics	ASTM D1557	\$240.00	each
Compaction Characteristics	CTM 216	\$240.00	each
Expansion Index	ASTM D4829	\$175.00	each
Hydraulic Conductivity, Flexible Wall Permeability	ASTM D5084	\$400.00	each
Lime-Treated Unconfined Compression	CTM 373	\$785.00	each
Moisture Content	ASTM D2216	\$20.00	each
Organic Content	ASTM D2974	\$90.00	each
Resistance "R" Value - Untreated	ASTM D2844, CTM 301	\$245.00	each
Resistance "R" Value - Laboratory Lime-Treated	ASTM D2844, CTM 301	\$300.00	each
Sieve Analysis - Sieve only (Coarse or Fine)	ASTM C136/D1140	\$100.00	each
Sieve Analysis - Passing No. 200 only	ASTM D1140	\$90.00	each
Sieve Analysis - Sieve & Hydrometer	ASTM D422	\$160.00	each
Specific Gravity of Soils	ASTM D854	\$125.00	each
Triaxial Compression Test, 1 point - Undisturbed	ASTM D4767	\$250.00	each
Triaxial Compression Test, 3 Pt. Staged - Undisturbed	ASTM D4767	\$295.00	each
Triaxial Compression Test, 1 point - Remolded	ASTM D4767	\$325.00	each
Triaxial Compression Test, 3 Pt. Staged - Remolded	ASTM D4767	\$375.00	each
Unconfined Compression Test	ASTM D2166	\$100.00	each
Unit Weight/Moisture Content - Tube Sample	ASTM D2937/D2216	\$30.00	each
Consolidation (8 loads + 1 rebound)	ASTM D2435	\$450.00	each
Consolidation (additional loads)	ASTM D2435	\$50.00	each
Thermal Resistivity	ASTM D5334	\$50.00	each

AGGREGATE

Aggregate Unit Weight	ASTM C29	\$50.00	each
Clay Lumps and Friable Particles	ASTM C142	\$155.00	per size
Cleanness Value	CTM 227	\$160.00	each
Durability Index (Coarse or Fine)	CTM 229	\$155.00	each
Flat and Elongated Particles in Coarse Aggregate	ASTM D4791	\$115.00	per size
Fractured/Crushed Particles	ASTM D5821, CTM 205	\$115.00	per size
Organic Impurities in Fine Aggregates	ASTM C40	\$55.00	each
Resistance "R" Value	CTM 301	\$290.00	each
Sand Equivalent, 1 point	CTM 217	\$85.00	each
Sand Equivalent, 3 points	CTM 217	\$125.00	each
Sieve Analysis - Coarse or Fine	ASTM C136, CTM 202	\$100.00	each
Sieve Analysis - Passing No. 200 only	ASTM C117	\$90.00	each
Sodium Sulfate Soundness	ASTM C88, CTM 214	\$120.00	per size
Specific Gravity and Absorption (Coarse or Fine)	ASTM C127, C128	\$120.00	each

ASPHALT CONCRETE

Asphalt Content (Ignition Oven)	ASTM D6307, CTM 382	\$240.00	each
Hveem Compacted Unit Weight, 1 point	ASTM D1560/D2726		
	CTM 304/308	\$95.00	each
Laboratory Test Maximum Density (LTMD), 5 points	CTM 375	\$350.00	each
Marshall Compacted Unit Weight, 1 point	ASTM D6926/D2726	\$90.00	each
Sieve Analysis of AC Aggregate (Coarse and Fine)	ASTM D5444, CTM 202	\$165.00	each
Stabilometer Value, 1 point	CTM 366	\$125.00	each
Theoretical Maximum Density	ASTM D2041, CTM 309	\$150.00	each
Thickness of AC Cores	ASTM D3549	\$10.00	each
Unit Weight of AC Cores	ASTM D2726, D1188, CTM 308	\$50.00	each



LABORATORY SERVICES

**CONCRETE**

Compression Test, Concrete Cylinder	ASTM C39	\$25.00	each
Compression Test, Concrete Cylinder - Hold	ASTM C39	\$20.00	each
Compression Test, Concrete Core	ASTM C42, C39	\$70.00	each
Compression Test, Shotcrete Core	ASTM C42, C39	\$70.00	each
Compression Test, High Strength Grout	ASTM C1107/C109	\$35.00	each
Concrete Cylinder Mold		\$4.00	each
Density / Unit Weight of Concrete	ASTM C567, C642	\$50.00	each
Flexural Strength Test, Concrete Beam	ASTM C78	\$95.00	each
Laboratory Drying Shrinkage Test, per beam	ASTM C157	\$175.00	each
Splitting Tensile Test, Concrete Cylinder	ASTM C496	\$75.00	each

**MASONRY**

<b>Brick</b>			
Compression Test	ASTM C67	\$60.00	each
Modulus of Rupture	ASTM C67	\$70.00	each
Absorption	ASTM C67	\$85.00	each
<b>Concrete Masonry Unit</b>			
Compression Test	ASTM C140	\$70.00	each
Absorption & Moisture Content	ASTM C140	\$70.00	each
Linear Drying Shrinkage	ASTM C426	\$175.00	each
Compression Test, Composite Masonry Prism	ASTM C1314	\$95.00	each
Compression Test, Masonry Grout	ASTM C1019	\$35.00	each
Compression Test, Mortar	ASTM C780	\$30.00	each
Core Shear Test	CBC Section 2105A	\$80.00	each
Masonry Core Compression Test	CBC Section 2105A	\$70.00	each

**STEEL**

Anchor Bolt Tensile Test	ASTM F606	\$95.00	each
Fireproofing Density Test	ASTM E605	\$65.00	each
<b>High Strength Bolt Assembly Laboratory Testing</b>			
Bolt - Wedge Tension Test	ASTM F606	\$70.00	each
Bolt - Proof Load Test	ASTM F606	\$70.00	each
Bolt - Hardness Test	ASTM E18	\$25.00	each
Nut - Proof Load Test	ASTM F606	\$70.00	each
Nut - Hardness Test	ASTM E18	\$25.00	each
Washer - Hardness Test	ASTM E18	\$25.00	each
Prestressing Steel Strand Tensile Test	ASTM A416/A1061	\$125.00	each
<b>Reinforcing Steel (Rebar) Tensile Test</b>			
Up to No. 7	- ASTM A615, A706/A370	\$70.00	each
From No. 8 through No. 14	ASTM A615, A706/A370	\$95.00	each
Reinforcing Steel (Rebar) Bend Test	ASTM A615, A706/A370	\$35.00	each
<b>Structural Steel Tensile Test</b>			
Up to 3/4"	ASTM A370	\$70.00	each
Sizes Larger Than 3/4"	ASTM A370	\$95.00	each
Machining of Test Specimens		cost plus %20	
Structural Steel Hardness Test	ASTM E18	\$75.00	each
Torque Wrench Calibration (minimum of 4 wrenches)		\$75.00	each
Weld Assembly, Guided Bend/Macroetch/T-Bend Test	AWS D1.1, ASTM E190	\$75.00	per test
Welder Qualification Test Inspection		\$80.00	per hour
Welder Qualification Test Record		\$95.00	each

**TESTING SERVICES**

Laboratory Technician		\$85.00	per hour
-----------------------	--	---------	----------



**EXHIBIT B**  
**INSURANCE REQUIREMENTS**

## EXHIBIT B

### Insurance Required for Most Contracts

*(Not for Professional Services or Construction Contracts)*

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

#### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than One Million Dollars (\$1,000,000) per incident or occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under the Agreement Insurance Services Office (ISO) Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage and transportation related pollution liability.
3. **Workers' Compensation** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

***Application of Excess Liability Coverage:*** Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

#### ***Other Insurance Provisions***

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### ***Additional Insured Status***

The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL and Auto policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in

connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

***Primary Coverage***

For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

***Reporting***

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees, agents or volunteers.

***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.

***Waiver of Subrogation***

Contractor hereby grants to County a waiver of any right to subrogation (except for Professional Liability) which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

***Acceptability of Insurers***

Insurance is to be placed with California admitted insurers (licensed to do business in California) with a current A.M. Best's rating of no less than A-VII, however, if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Approved Surplus Line Insurers (LASLI) maintained by the California Department of Insurance.

***Claims Made Policies***

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

***Verification of Coverage***

Contractor shall furnish the County with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Subcontractors***

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

***Special Risks or Circumstances***

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Insurance Limits***

The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors. Contractor's obligation to defend, indemnify and hold the County and its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for Contractor to procure and maintain a policy of insurance.

[SIGNATURES SET FORTH ON THE FOLLOWING PAGE]

\_\_\_\_\_ Exempt from Auto – I will not utilize a vehicle in the performance of my work with the County.

\_\_\_\_\_ Exempt from WC – I am exempt from providing workers' compensation coverage as required under section 1861 and 3700 of the California Labor Code.

I acknowledge the insurance requirements listed above.

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

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

Vendor Name: Wallace-Kuhl & Associates

---

*For CEO-Risk Management Division use only*

Exception: \_\_\_\_\_

Approved by CEO-Risk Management Division: Kevin Watts Date: 8/18/17



ATTACHMENT 2

BSK ASSOCIATES, PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT

## STANISLAUS COUNTY

### PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT FOR ON-CALL MATERIALS TESTING SERVICES

THIS MASTER AGREEMENT, hereinafter referred to as "Agreement" is made and entered into on this 19th day of September, 2017, by and between the COUNTY OF STANISLAUS, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and BSK ASSOCIATES, hereinafter referred to as "CONSULTANT".

#### Scope of Services

On-call Materials Testing Services

#### Consultant's Compensation

Not to exceed \$375,000

#### Start Date – End Date

October 1, 2017 to September 30, 2020

#### Contract Provisions

- Section 1: Caltrans Mandatory Fiscal and Federal Provisions
- Section 2: Stanislaus County Provisions
  - Exhibit A: Fee Schedule
  - Exhibit B: Insurance Requirements

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

## **SECTION 1**

### **CALTRANS MANDATORY FISCAL & FEDERAL PROVISIONS**

#### **Article IV Performance Period**

A. This contract shall go into effect on OCTOBER 1, 2017, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The contract shall end on SEPTEMBER 30, 2020, unless extended by contract amendment.

B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

#### **Article V Allowable Costs and Payments**

A. The method of payment for this contract will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY'S approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.

B. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$375,000. The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.

C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

D. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.

F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.

G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billed. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

David Leamon, Deputy Director  
Stanislaus County Public Works  
1716 Morgan Road  
Modesto, CA 95358

H. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$375,000.

I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.

J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

#### **Article VI Termination**

A. LOCAL AGENCY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.

B. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the

manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

C. The maximum amount for which the LOCAL AGENCY shall be liable if this contract is terminated is \$375,000 dollars.

#### **Article VII Cost Principles and Administrative Requirements**

A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

B. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments.

C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.

All subcontracts in excess of \$25,000 shall contain the above provisions.

#### **Article VIII Retention of Records**

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and LOCAL AGENCY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, LOCAL AGENCY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

**Article IX Audit Review Procedures**

A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.

B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this contract.

D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

**Article X Subcontracting**

A. Nothing contained in this contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.

B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract

shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.

D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.

E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

#### **Article XI Equipment Purchase**

A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

C. Any equipment purchased as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

## **Article XII State Prevailing Wage Rates**

A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.

B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.

C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

## **Article XIII Conflict of Interest**

A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.

B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

C. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

D. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

## **Article XIV Rebates, Kickbacks or Other Unlawful Consideration**

CONSULTANT warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall



have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**Article XV Prohibition of Expending Local Agency, State, or Federal Funds for Lobbying**

A. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative Contract.

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative Contract; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

**Article XVI Statement of Compliance**

A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program

requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the 5 applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full.

Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Contract.

C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

D. The Consultant, with regard to the work performed by it during the Contract shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Contract covers a program whose goal is employment.

#### **Article XVII Debarment and Suspension Certifications**

A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government

wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to LOCAL AGENCY.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

## **SECTION 2**

### **STANISLAUS COUNTY PROVISIONS**

#### **PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT FOR ON-CALL MATERIALS TESTING SERVICES**

##### **1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT**

**1.1 Scope of Services:** Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") and Consultant's Response to County's RFP (the "Response") which are incorporated by reference in Section 2.0 entitled "Contract Documents".

Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of services does not exceed \$100,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$100,000 shall be approved by resolution of the Board of Supervisors for the County.

**1.2 Professional Practices:** All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

**1.3 Representations:** Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth in Section 3.1 - Compensation. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services.

**1.4 Compliance with Laws:** Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

**1.5 Non-Discrimination:** During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment 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 disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. Consultant and its officers, employees, agents, representatives or subconsultants shall comply with all

applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

**1.6 Non-Exclusive Agreement:** Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

**1.7 Delegation and Assignment:** This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subconsultant(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

**1.8 Subcontracting:** Nothing contained in this contract or otherwise, shall create any contractual relation between County and any subconsultants(s), and no subconsultant shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to County for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from County's obligation to make payments to the Consultant.

Consultant shall perform the services with resources available within its own organization; and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by the County, except that, which is expressly identified in the approved Cost Proposal.

Any substitution of subconsultants must be approved in writing by the County.

**1.9 Conflict of Interest:** Consultant shall disclose any financial, business, or other relationship with County that may have an impact upon the outcome of this agreement, or any ensuing County construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this agreement, or any ensuing County construction project, which will follow.

Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

Consultant hereby certifies that neither Consultant, nor any firm affiliated with the Consultant will bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement. An affiliated firm is one, which is subject to the control of the same persons through joint ownership, or otherwise.

Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this

agreement shall be eligible to bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement.

**1.10 Covenant Against Contingent Fees:** Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**1.11 Rebates, Kickbacks or Other Unlawful Consideration:** The Consultant warrants that this agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any County employee. For breach or violation of this warranty, County shall have the right in its discretion; to terminate the agreement without liability; to pay only for the value of the work actually performed; or to deduct from the agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**1.12 Prohibition of Expending State or Federal Funds for Lobbying:** The Consultant certifies to the best of his or her knowledge and belief that:

No, state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of the Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

**1.13 Debarment and Suspension Certification:** The Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the Consultant has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct with the past three (3) years. Any exceptions to this certification must be disclosed to the County.

Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to who exceptions apply, initiating agency, and dates of actions.

## **2.0 CONTRACT DOCUMENTS**

Contract documents consist of the following documents, including all changes, addenda, and modifications thereto:

1. Agreement and all attachments
  - a. Exhibit A – Fee Schedule
  - b. Exhibit B – Insurance Requirements
2. County's Request for Proposal
3. Consultant's Response

## **3.0 COMPENSATION AND BILLING**

**3.1 Compensation:** For each task or project let under this Agreement Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "A", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subconsultants at the hourly rates specified in the Fee Schedule. Fee Schedule rates shall include direct salary costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. Consultant's compensation under this Agreement shall in no case exceed Three Hundred Seventy-Five Thousand Dollars (\$375,000) during the term of this Agreement.

The County may retain five percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

**3.2 Reimbursements:** In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for

reimbursement shall be accompanied by a copy of the original invoice.

**3.3 Additional Services:** Consultant shall not receive compensation for any services provided outside the scope of services specified in the County's ("RFP") and the Consultant's ("Response") and also as specified in each project scope of services unless the County or the Project Manager for the project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

**3.4 Method of Billing:** Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

**3.5 Records and Audits:** Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County, its Project Manager, The State, State Auditor, FHWA, or any duly authorized representative of the Federal Government for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

**3.6 Extension of Term of Agreement:** The original Fee Schedule shall apply to the extension of the term of the agreement unless renegotiated and approved by both parties in writing.

**3.7 Cost Principles:** The Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.

The Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to the County.

All subcontracts in excess of \$25,000 shall contain the above provisions.

#### **4.0 TIME OF PERFORMANCE**

**4.1 Commencement and Completion of Work:** The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed for each separately approved Project. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in each Project Scope of Services. Each Project Schedule may be amended by mutual agreement of the



parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

**4.2 Excusable Delays:** Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

**4.3 Completion of Agreement:** This Agreement shall be completed no later than September 30, 2020, unless extended by amendment.

## **5.0 TERM OF CONTRACT AND TERMINATION**

**5.1 Term:** This Agreement shall commence on the date of the award of this agreement and shall continue for a period of thirty-six months, or until all work on each project let during the thirty-six month period is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Additionally, the term of this agreement may be extended for an additional twenty-four months by the parties mutual agreement.

**5.2 Notice of Termination:** The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

**5.3 Compensation:** In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "A". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

**5.4 Documents:** In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps, reports, correspondence, and all electronic files shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

## 6.0 INSURANCE REQUIREMENTS

**6.1 Coverage Required:** Contractor shall obtain, and maintain at all times during the term of this Agreement, insurance coverage in the amounts and coverage specified in the attached "Exhibit B."

## 7.0 INDEMNIFICATION

**7.1 Indemnification:** To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnitee") from and against any and all claims, suits, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, (collectively, "losses") which are founded upon, arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subconsultants, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the County, its agents, employees, and representatives. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

**7.2 Duty to Defend:** The duty of Consultant to indemnify and save harmless as set forth herein, shall include both the duty to indemnify and at Consultant's own cost and expense the duty to defend as set forth in Section 2778 of the California Civil Code and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

**7.3 Duty to Cooperate:** Each party shall notify the other party within ten (10) days in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement. Specifically, Consultant shall take all steps necessary to assist the County in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

**7.4 Patent Rights:** Consultant represents that professional services provided by Consultant pursuant to this Agreement does not infringe on any other copyrighted work. Consultant shall defend, indemnify and hold harmless the County from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the County of any articles or services supplied under this agreement.

The foregoing provisions in this section "Indemnification" shall survive the term and termination of this Agreement.

## 8.0 GENERAL PROVISIONS

**8.1 Entire Agreement:** This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

**8.2 Representatives:** The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

**8.3 Project Managers:** County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

**8.4 Removal of Personnel or Sub-Consultants:** If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

**8.5 Notices:** Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:                   David Leamon, Deputy Director  
Stanislaus County Public Works  
1716 Morgan Road  
Modesto, CA 95358

If to Consultant:           Tim Rodriguez, Branch Manager  
BSK Associates  
399 Lindbergh Avenue  
Livermore, CA 94551

**8.6 Attorneys' Fees:** In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

**8.7 Claims Filed by County's Construction Contractor:** If claims are filed by County's construction contractor relating to work performed by Consultant's personnel, and additional information or assistance from Consultant's personnel is required in order to evaluate or defend against such claims; Consultant agrees to make its personnel available for consultation with County's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

Consultant's personnel that County considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from County. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for Consultant's personnel services under this contract.

**8.8 Governing Law:** This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

**8.9 Assignment:** Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

**8.10 Independent Contractor:** Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

**8.11 Confidentiality:** The Consultant agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

Permission to Disclose information on one occasion, or public hearing held by the County relating to the contract, shall not authorize the Consultant to further disclose such information, or disseminate the same on any other occasion.

The Consultant shall not comment publicly to the press or any other media regarding the contract or the County's actions on the same, except to the County's staff, Consultant's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.

The Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the County, and receipt of the County's written permission.

Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

**8.12 National Labor Relations Board Certification:** In accordance with Public Contract Code Section 10296, Consultant hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant with the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

**8.13 Ownership of Documents:** Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

**8.14 Reuse of Design Documents:** Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

**8.15 Public Records Act Disclosure:** Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subconsultants, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

**8.16 Responsibility for Errors:** Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

**8.17 Order of Precedence:** In the event of inconsistency among any of the Contract Documents, the following order of precedence applies:

1. This agreement shall prevail over all other documents;
2. The attachments to this agreement shall prevail over the RFP and Response;
3. The RFP shall prevail over the Response; and,
4. Section 2/St Stanislaus County Provisions shall prevail over Section 1/Caltrans Mandatory Fiscal & Federal Provisions.

**8.18 Costs:** Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

**8.19 No Third Party Beneficiary Rights:** This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

**8.20 Construction:** The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

**8.21 Amendments:** This Agreement may be amended only by a writing executed by the parties hereto or their respective successors and assigns.

**8.22 Waiver:** The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

**8.23 Severability:** If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the

offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

**8.24 Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

**8.25 Corporate Authority:** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

BSK ASSOCIATES

By:   
Matt Machado, Director  
Department of Public Works

By:   
Richard Johnson, PG, CEG

APPROVED AS TO FORM:  
John P. Doering  
County Counsel

By:   
Amanda DeHart  
Deputy County Counsel

**EXHIBIT A**  
**FEE SCHEDULE**



## RFP WORKSHEET FOR TESTING & INSPECTION SERVICES

Testing & Inspection services may include but not be limited to the following items.

TEST NO.	TESTING / INSPECTION SERVICE DESCRIPTION	PRICE PER TEST (\$)	TURN AROUND TIME (DAYS)
1	HOURLY RATE FOR SOIL TECHNICIAN CALTRANS I A. CERTIFIED WITH NUCLEAR DENSITY GAUGE	\$116	1
2	HOURLY RATE FOR A.C.1 FIELD TESTING TECHNICIAN - GRADE 1	\$98	1
3	HOURLY RATE FOR ASPHALT TECHNICIAN CALTRANS I A CERTIFIED	\$116	1
4	HOURLY RATE FOR I.C.B.O./A.W.S. SPECIAL INSPECTOR (CONCRETE/MASONRY/WELDING)	\$107	1
5	FIELD COMPACTION TESTS USING CALIFORNIA 231 TEST METHOD (NUCLEAR GAGE TESTING WITH MINIMUM OF 3 NUCLEAR SHOTS PER TEST INCLUDING MOISTURE - ROAD WORK)	\$155	1
6	LABORATORY COMPACTION TEST USING CALIFORNIA 216 TEST METHOD (PART II MAX WET DENSITY & PERCENT RELATIVE COMPACTION)	\$195	1
7	AGGREGATE TESTING USING CALIFORNIA 202 METHOD OF TESTS FOR SIEVE ANALYSIS OF FINE AND COURSE AGGREGATES	\$150	1
8	AGGREGATE TESTING USING CALIFORNIA 205 METHOD FOR DETERMINING PERCENTAGE OF CRUSHED PARTICLES	\$150	3
9	SAND EQUIVALENT USING CALIFORNIA 217 TEST METHOD	\$115	3
10	BULK SPECIFIC GRAVITY & DENSITY OF BITUMINOUS MIXTURES USING CALIFORNIA 308 TEST METHOD	\$140	2
11	DETERMINATION OF ASPHALT BINDER CONTENT OF BITUMINOUS PAVING MIXTURES BY THE IGNITION METHOD USING CALIFORNIA 382 TEST METHOD	\$205	1
12	RESISTANCE "R" VALUE OF TREATED AND UNTREATED BASES, SUBBASES, AND BASEMENT SOILS BY THE STABILOMETER TEST USING CALIFORNIA 301 TEST METHOD	\$360	3
13	GRAB BAG SOIL SAMPLING PICKUP (UP TO 75 POUNDS) WITHIN STANISLAUS COUNTY - PER SITE (EACH).	\$206	1
14	ASTM D6938-08. "STANDARD TEST METHOD FOR IN-PLACE DENSITY & WATER CONTENT OF SOIL & SOIL-AGGREGATE BY NUCLEAR METHODS".	\$116	1
15	ASTM D1557-07. "STANDARD TEST METHODS FOR LABORATORY COMPACTION CHARACTERISTICS OF SOIL USING MODIFIED EFFORT"	\$230	1
16	SAMPLING FRESH CONCRETE USING CALIFORNIA 539 TEST METHOD; AND MAKING HANDLING, AND STORING CONCRETE COMPRESSIVE TEST SPECIMENS IN THE FIELD USING CALIFORNIA 540 TEST METHOD	\$98	1

TEST NO.	TESTING / INSPECTION SERVICE DESCRIPTION	PRICE PER TEST (\$)	TURN AROUND TIME (DAYS)
17	CONCRETE CYLINDER PICKUP PER SET OF CYLINDERS WITHIN STANISLAUS COUNTY (EACH)	\$93	1
18	CALTRANS TEST METHOD 366, "STABILOMETER VALUE"	\$160	3
19	CALTRANS TEST METHOD 367, "OPTIMUM BITUMEN CONTENT"	\$2830	5
20	CALTRANS TEST METHOD 370 "MOISTURE CONTENT OF BITUMINOUS MIXTURES OR GRADED MINERALS AGGREGATES USING MICROWAVE OVENS"	\$60	1
21	CALTRANS TEST 375, "RELATIVE COMPACTION OF ASPHALT CONCRETE IN PLACE"	\$116	1
22	CALTRANS TEST 202, "SIEVE ANALYSIS OF FINE AND COARSE AGGREGATES"		
23	ASTM D4318, "PLASTICITY INDEX"	\$200	3
24	ASTM D422, "SIEVE ANALYSIS OF SOIL ASTM D422" WITH AND WITHOUT HYDROMETER	\$360 / \$155	5 / 2
25	CALTRANS TEST METHOD 382, "ASPHALT DETERMINATION OF ASPHALT BINDER CONTENT OF BITUMINOUS PAVING MIXTURES BY THE IGNITION METHOD"	\$205	1
26	CHEMICAL TESTING OF TREATED AND UNTREATED SOILS AND AGGREGATE BASES, ASTM TEST METHOD D 2170, "KINEMATIC VISCOSITY", ASTM TEST METHOD 2171, "ABSOLUTE VISCOSITY", AND ASTM D5, "PENETRATION"	\$102 \$102 \$72	10 10 10
27	PERCOLATION TESTING TO DETERMINE SOIL'S PERCOLATION RATE. (FOR TRENCH AND BED PERCOLATION)	\$2000 to \$8000	28
28	CALTRNS TEST 521 - METHOD OF TEST FOR COMPRESSIVE STRENGTH OF MOLDED CONCRETE CYLINDERS	\$30	1

# BSK Associates - Schedule of Fees 07/01/2017 to 06/30/2018 (Prevailing Wage)

PERSONNEL RATES	
<b>PROFESSIONAL STAFF</b> Principal \$ 214.00 Senior Professionals \$ 190.00 Project Professional II \$ 170.00 Project Professional I \$ 140.00 Staff Professional II \$ 124.00 Staff Professional I \$ 114.00 Seismic GIS \$ 165.00 GIS Specialist \$ 100.00 Information Specialist II \$ 137.00 Information Specialist I \$ 114.00 Project Administrator \$ 75.00  <b>REIMBURSABLES</b> Mileage (Portal to Portal) \$ 0.88 Per Diem (as required) \$ 150.00 Bridge Toll Cost + 15% Parking Fees Cost + 15% Subconsultant Services Cost + 15% Project Administration Fees 7% of Invoice DIR Administration Fees 3% of Invoice Project Setup (Project) \$500.00  <b>ANALYSIS SOFTWARE USAGE FEES</b> gINT (Project) \$ 50.00 LPIle (Project) \$ 50.00 APile (Project) \$ 50.00 SHAFT (Project) \$ 50.00 GROUP (Project) \$ 100.00 Cliq (Project) \$ 50.00 LiquefyPro (Project) \$ 50.00 LiqIT (Project) \$ 50.00 NovaLIQ (Project) \$ 50.00 Slide (Project) \$ 100.00 Settle3D (Project) \$ 100.00 ArcGIS (Project) \$ 50.00	<b>TECHNICAL STAFF (Prevailing Wage)</b> Field Supervisor \$ 140.00 Group 1 - Special Inspector \$ 110.00 Group 2 - Special Inspector \$ 107.00 Group 3 - Engineering Technician \$ 103.00 Group 4 - Technician \$ 98.00 Ground Penetrating Radar Scanning Technician \$ 250.00 Core Drilling Technician \$ 175.00 Floor Flatness Testing Technician \$ 155.00 Sample Pickup / Transportation / Delivery \$ 93.00 Laboratory Technician \$ 93.00 Administrative Assistant / Clerical \$ 70.00  <b>BASIS OF CHARGES FOR FIELD TECHNICIAN SERVICES</b> Field Work from 0 to 4 hours Bill 4 hours Field Work from 4 to 8 hours Bill 8 hours Field Work over 8 hours / Saturdays Bill time and a half Sundays, holidays and over 12 hours Bill double time Swing shift (4:00pm to Midnight) Add \$15.00 per hour Graveyard Shift Add \$20.00 per hour Show-up time (no work performed) Bill 2 hours Sampling or cylinder pickup, minimum charge Bill 2 hours  <b>EQUIPMENT</b> Nuclear Gauge (Day) \$ 55.00 Ultrasonic Weld Equipment (Day) \$ 55.00 Torque Wrench (Day) \$ 55.00 Proof Load Equipment (Day) \$ 55.00 Rebar Locator / Pachometer \$ 100.00 Hand Auger (Day) \$ 200.00 Water Meter (Day) \$ 50.00 Drilling Kit - Paint, stakes and lath - (Project) \$ 25.00 Drilling Supplies - Reuse of tubes/caps (Project) \$ 250.00 Manometer (Day) \$ 200.00 Double Ring Infiltrometer (Day) \$ 500.00  <b>MATERIALS LABORATORY TESTS</b>  <b>SOILS</b> <b>Moisture Density Curves</b> Standard Proctor, 4" (ASTM/AASHTO) \$ 215.00 Modified Proctor, 4" Mold (ASTM/AASHTO) \$ 215.00 Modified Proctor, 6" mold (ASTM D1557) \$ 230.00 Caltrans Maximum Wet Density (CT 216) \$ 195.00 Check Point \$ 125.00  <b>Particle Size Analysis</b> Sieve Analysis w/ Wash (ASTM D422) \$ 155.00 Minus #200 Wash, Soil (ASTM D1140) \$ 75.00 Hydrometer Analysis (ASTM D422) \$ 205.00 Double Hydrometer (ASTM D4221) \$ 285.00 Specific Gravity of Soil (ASTM D854) \$ 145.00 Visual Classification (ASTM D2488) \$ 40.00 Sand Equivalent (ASTM D2419) \$ 115.00 % Organics in Soil (ASTM D2974) \$ 125.00  <b>Atterberg Limits / Swell Tests</b> Plasticity Index (ASTM D4318) \$ 200.00 Shrinkage Limits of Soils (ASTM D427) \$ 185.00 Expansion Index of Soils (UBC No. 29) \$ 215.00  <b>Moisture Density Test</b> Tube Density \$ 45.00 Moisture Content of Soils (ASTM D2216) \$ 40.00  <b>"R" Value Determination</b> R-Value of Soils (CT 301) \$ 360.00 R-Value of Treated Materials (CT 301) \$ 400.00  <b>Consolidation Tests</b> Consolidation (ASTM D2435) \$ 380.00 Consolidation, Extra Points (ASTM D2435) \$ 50.00 Collapse Potential of Soils (ASTM D2435) \$ 185.00 Remolded Consolidation (ASTM D2435) \$ 325.00 One-Dimen Swell of Soil (ASTM D4546) \$ 120.00  <b>California Bearing Ratio (CBR)</b> CBR at 100% (ASTM D1883 or AASHTO T-180) \$ 465.00 CBR at 95% (ASTM D1883 or AASHTO T-180) \$ 905.00  <b>Permeability Tests</b> Rigid Wall Permeability (ASTM D2434) \$ 260.00 Flexible Wall Permeability (ASTM D5084) \$ 400.00 Remolded Flexwall Perm (ASTM D5084) \$ 510.00  <b>Soil Corrosivity Tests</b> Minimum Resistivity of Soils (CT 643) \$ 130.00 pH \$ 60.00 Soluble Sulfate, Chloride and Sulfide \$ 120.00 Oxidation Reduction of Soil \$ 50.00  <b>Soil Cement Tests</b> Freeze Thaw Abrasion (ASTM D560) \$ 570.00 Wetting-Drying Abrasion (ASTM D559) \$ 545.00 Preparation of Freeze-Thaw or Wetting-Drying Tests \$ 685.00 Soil Cement Compression (ASTM D1633) \$ 220.00 Cement Content Soil Cement (ASTM C1084) \$ 220.00  <b>Other</b> Sample Preparation \$ 60.00 Crumb Test Dispersion (ASTM D6572) \$ 70.00 Pinhole Dispersion Test (ASTM) \$ 230.00 Sand Density Calibration (ASTM D1566) \$ 70.00  <b>Unconfined Compression</b> Unconfined Compression (ASTM D2166) \$ 120.00  <b>Shear Tests</b> Direct Shear, Undisturbed (ASTM D3080) \$ 200.00 Direct Shear, Remolded (ASTM D3080) \$ 235.00 Triaxial Compression Testing QUOTE

# BSK Associates - Schedule of Fees 07/01/2017 to 06/30/2018 (Prevailing Wage)

MATERIALS LABORATORY TESTS	
<b>AGGREGATES</b>	
Sieve Analysis Coarse or Fine (ASTM C136)	\$ 75.00
Sieve Analysis w/ Fineness Modulus	\$ 80.00
Minus 200 Wash, Aggregates (ASTM C117)	\$ 75.00
Specific Gravity/Absorption (ASTM C127)	\$ 145.00
Specific Gravity/Absorption (ASTM C128)	\$ 145.00
Organic Impurities (ASTM C40)	\$ 75.00
% Lumps/Friable Particles (ASTM C142)	\$ 75.00
% Flat and Elongated (ASTM D4791)	\$ 115.00
Moisture Content (ASTM D2216)	\$ 40.00
Aggregate Wt., pcf Compacted (ASTM C29)	\$ 70.00
Aggregate Wt., pcf Loose (ASTM C29)	\$ 60.00
Abrasion by LA Rattler, Small Size (ASTM C131)	\$ 215.00
Abrasion by LA Rattler, Large Size (ASTM C131)	\$ 260.00
Sodium Sulfate Soundness, Per Sieve (ASTM C88)	\$ 100.00
Sodium Sulfate Soundness, Min. Charge (ASTM C88)	\$ 320.00
Relative Mortar Strength of Sand (ASTM C87)	\$ 390.00
Sand Equivalent (ASTM D2419 OR CT 217-1)	\$ 115.00
Durability Index (CT 229)	\$ 230.00
Potential Reactivity of Aggregates	QUOTE
Cleaness Value of Aggregate (CT 227)	\$ 165.00
Hydrometer (ASTM D422 OR CT 205-E)	\$ 205.00
% Crushed particles (CT 205)	\$ 150.00
Ughtweight Pieces (ASTM 123)	\$ 200.00
<b>HOT MIX ASPHALT</b>	
Mix Design, HVEEM	\$ 2,830.00
Mix Design, Marshall	\$ 3,350.00
Hamburg Wheel Track (AASHTO T324)	\$ 1,520.00
Gyratory Compaction (AASHTO T312)	\$ 320.00
AC Content by Centrifuge (ASTM D2172)	\$ 260.00
AC / Ash Correction (ASTM D2172 / CT382)	\$ 260.00
AC Content-Ignition (ASTM D6307 / CT382 / AASHTO T308)	\$ 205.00
Moisture Content of Asphalt (CT 370)	\$ 60.00
Gradation/Extraction Aggregate (ASTM D5444)	\$ 125.00
Film Stripping	\$ 80.00
Compaction/Preparation of HMA Briquette (CT 304)	\$ 200.00
Stabilometer Value (CT 366 / AASHTO T246)	\$ 160.00
AC Core Specific Gravity (ASTM D2728)	\$ 50.00
AC Core Specific Gravity - Paraffin Coated (AASHTO T275)	\$ 140.00
AC Max Density Rice Method (ASTM D2041)	\$ 230.00
Tensile Strength Ratio (AASHTO T283)	\$ 1,050.00
Moisture Vapor Susceptibility (CT 307)	\$ 185.00
AC Surface Abrasion (CT 360)	\$ 455.00
Index Retained Strength (ASTM D1074-D1075)	\$ 410.00
AC Hveem Maximum Density (CT 375)	\$ 410.00
Marshall Stability and Flow (ASTM D6927)	\$ 230.00
Calculated AC Maximum Density (CT 367)	\$ 90.00
Marshall Maximum Density, 50 Blows (ASTM D6926)	\$ 265.00
Examination of AC Cores	\$ 30.00
Thickness Determination of AC Cores	\$ 20.00
AC Tensile-Strength Premixed ASTM D4867	\$ 590.00
AC Tensile-Strength Lab Mixed ASTM D4867	\$ 695.00
<b>REINFORCING STEEL</b>	
Tensile & Bend of Rebar, #3 - #8	\$ 135.00
Tensile & Bend of Rebar, #9 - #11	\$ 135.00
Bend Test of Rebar	\$ 50.00
Slip and Tensile Rebar Couplers (CT 670)	\$ 195.00
Tension Test of Welded Wire Fabric	QUOTE
Bend Test of Welded Wire Fabric	QUOTE
Weld Shear Test, Welded Wire Fabric	QUOTE
PT Cable Tensile and Elongation (ASTM A416 or A421)	\$ 260.00
PT Cable Preparation	QUOTE
<b>WOOD PRODUCTS</b>	
Specific Gravity and Shrinkage (ASTM D143)	\$ 105.00
Moisture Content, Oven Dry (ASTM D2016, Method A)	\$ 45.00
Moisture Content, Meter (ASTM D2016, Method B)	\$ 30.00
Plywood Glue Shear Test (ASTM D805)	QUOTE
Moisture Absorption of Plywood (ASTM D805)	\$ 70.00
<b>Glue-Laminated Timbers</b>	
<b>CONCRETE</b>	
Cement Content Concrete (ASTM C1084)	\$ 345.00
Chemical Test (ASTM C150)	QUOTE
Set Times Cement-Vicat Needle (ASTM C191)	\$ 285.00
Specific Gravity of Hydraulic Cement (ASTM C191)	\$ 140.00
Linear Shrinkage Set of 3 (ASTM C157)	\$ 360.00
Compression Test of Concrete - 1 (ASTM C39)	\$ 30.00
Compression Test of Concrete - 4 (ASTM C39)	\$ 125.00
Compression Test of Core (ASTM C42)	\$ 55.00
Preparation of Specimens, Sawing	\$ 60.00
Compressive Strength of Shotcrete Panel	\$ 290.00
Proportion of Cement in Concrete (ASTM C85)	\$ 335.00
Flexural Test Per Beam (ASTM C78)	\$ 80.00
Splitting Tensile Strength of Concrete (ASTM C496)	\$ 80.00
Unit Weight Lt Wt Concrete (ASTM C567)	\$ 50.00
*AZ* Test-Reinforced Concrete Pipe "Life Factor"	\$ 70.00
9 Pt Core Measurements, Each (ASTM C174)	\$ 30.00
Compressive Strength of Gunite	\$ 55.00
Concrete Trial Batches	QUOTE
Unit Weight & Abs Concrete (ASTM D642)	\$ 115.00
Accelerated Curing of Concrete (ASTM C684)	\$ 230.00
Cylinder Molds (each)	\$ 6.00
Storage of Concrete Cylinders for more than 45 Days	\$ 55.00
RH Probe	\$ 55.00
Calcium Chloride Kit	\$ 35.00
Mixing Water (pH, elec. conductance, chloride, sulfate)	\$ 90.00
Contact Soil (pH, elec. conductance, chloride, sulfate)	\$ 110.00
<b>MASONRY</b>	
<b>Concrete Masonry Units Testing (ASTM C90)</b>	
Compression Test Pavers, Single	\$ 70.00
Compression Test Composit CMU Prism	\$ 150.00
Specific Gravity and Unit Weight	\$ 105.00
Moisture Content	\$ 50.00
Compression Test, Masonry Units (ASTM C140)	\$ 95.00
Absorption / Moisture Content (ASTM C140)	\$ 95.00
Linear Shrinkage (ASTM C426)	\$ 375.00
Masonry Core Shear Test (Title 24)	\$ 100.00
Masonry Core Compression/Shear Test (Title 24)	\$ 170.00
Compression Test Brick, Each (ASTM C67)	\$ 70.00
Absorption/ Unit Wt. of Brick (ASTM C67)	\$ 70.00
Compression Test Grout (Set of 3 or 4)	\$ 110.00
Compression Test Mortar (Set of 3 or 4)	\$ 105.00
<b>WELDING AND STRUCTURAL STEEL</b>	
<b>Welder Qualification Testing</b>	
Welder / Procedure Welder Qualification Testing	QUOTE
Face Bend of Steel	\$ 55.00
Root Bend of Weld Coupon	\$ 55.00
Side Bend of Weld Coupon	\$ 55.00
Tensile Test of Steel Coupon	\$ 75.00
Bend Test of Steel Coupon	\$ 65.00
Mechining Charges (Per Coupon)	QUOTE
Brinell Hardness of Steel (ASTM E10)	\$ 90.00
Rockwell Hardness of Steel (ASTM E18)	\$ 90.00
Bolt Ultimate Load	\$ 130.00
Bolt Hardness (set of 3)	\$ 90.00
Nut Hardness (set of 3)	\$ 90.00
Washer Hardness (set of 3)	\$ 90.00
Proof Loading, Bolt or nut	\$ 130.00
<b>FIREPROOFING</b>	
Cohesion/Adhesion Fireproofing Materials	\$ 115.00
Dry Density Fireproofing (ASTM E605)	\$ 85.00
<b>GALVANIZED COATINGS</b>	
Wt. of Galvanized Coating (ASTM A 90)	\$ 90.00
Moisture Absorption of Plywood (ASTM D805)	\$ 70.00
<b>CALIBRATION</b>	
Torque Wrench	\$ 160.00
Hydraulic Jack	\$ 150.00

**EXHIBIT B**

**INSURANCE REQUIREMENTS**

## EXHIBIT B

### Insurance Required for Most Contracts

*(Not for Professional Services or Construction Contracts)*

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

#### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than One Million Dollars (\$1,000,000) per incident or occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under the Agreement Insurance Services Office (ISO) Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage and transportation related pollution liability.
3. **Workers' Compensation Insurance** as required by the State of California, with Statutory Limits, and **Employer's Liability Insurance** with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

***Application of Excess Liability Coverage:*** Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

#### ***Other Insurance Provisions***

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### ***Additional Insured Status***

The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL and Auto policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in

connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

***Primary Coverage***

For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

***Reporting***

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees, agents or volunteers.

***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.

***Waiver of Subrogation***

Contractor hereby grants to County a waiver of any right to subrogation (except for Professional Liability) which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

***Acceptability of Insurers***

Insurance is to be placed with California admitted insurers (licensed to do business in California) with a current A.M. Best's rating of no less than A-VII, however, if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Approved Surplus Line Insurers (LASLI) maintained by the California Department of Insurance.

***Claims Made Policies***

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

***Verification of Coverage***

Contractor shall furnish the County with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Subcontractors***

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

***Special Risks or Circumstances***

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Insurance Limits***

The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors. Contractor's obligation to defend, indemnify and hold the County and its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for Contractor to procure and maintain a policy of insurance.

[SIGNATURES SET FORTH ON THE FOLLOWING PAGE]



\_\_\_\_\_ Exempt from Auto – I will not utilize a vehicle in the performance of my work with the County.

\_\_\_\_\_ Exempt from WC – I am exempt from providing workers' compensation coverage as required under section 1861 and 3700 of the California Labor Code.

I acknowledge the insurance requirements listed above.

Print Name: RICHARD E. JOHNSON Date: 8/24/17

Signature: [Handwritten Signature] Date: 8/24/17

Vendor Name: BSK Associates

---

*For CEO-Risk Management Division use only*

Exception: \_\_\_\_\_

Approved by CEO-Risk Management Division: Kevin Watts Date: 8/18/17

ATTACHMENT 3

ENGEO INCORPORATED, PROFESSIONAL DESIGN SERVICES MASTER  
AGREEMENT

## STANISLAUS COUNTY

### PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT FOR ON-CALL MATERIALS TESTING SERVICES

THIS MASTER AGREEMENT, hereinafter referred to as "Agreement" is made and entered into on this 19<sup>th</sup> day of September, 2017, by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and ENGEO Incorporated, hereinafter referred to as "CONSULTANT".

#### Scope of Services

On-Call Materials Testing Services

#### Consultant's Compensation

Not to exceed \$375,000

#### Start Date – End Date

October 1, 2017 to September 30, 2020

#### Contract Provisions

Section 1: Caltrans Mandatory Fiscal and Federal Provisions

Section 2: Stanislaus County Provisions

Exhibit A: Fee Schedule

Exhibit B: Insurance Requirements

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

## SECTION 1

### **CALTRANS MANDATORY FISCAL & FEDERAL PROVISIONS**

#### **Article IV Performance Period**

A. This contract shall go into effect on OCTOBER 1, 2017, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The contract shall end on SEPTEMBER 30, 2020, unless extended by contract amendment.

B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

#### **Article V Allowable Costs and Payments**

A. The method of payment for this contract will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY'S approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.

B. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$375,000. The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.

C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

D. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.

F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.

G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billed. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

David Leamon, Deputy Director  
Stanislaus County Public Works  
1716 Morgan Road  
Modesto, CA 95358

H. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$375,000.

I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.

J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

#### **Article VI Termination**

A. LOCAL AGENCY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.

B. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the

manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

C. The maximum amount for which the LOCAL AGENCY shall be liable if this contract is terminated is \$375,000 dollars.

#### **Article VII Cost Principles and Administrative Requirements**

A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

B. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments.

C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.

All subcontracts in excess of \$25,000 shall contain the above provisions.

#### **Article VIII Retention of Records**

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and LOCAL AGENCY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, LOCAL AGENCY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

**Article IX     Audit Review Procedures**

A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.

B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this contract.

D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

**Article X     Subcontracting**

A. Nothing contained in this contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.

B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract

shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.

D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.

E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

#### **Article XI Equipment Purchase**

A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

C. Any equipment purchased as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.



## **Article XII State Prevailing Wage Rates**

A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.

B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.

C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

## **Article XIII Conflict of Interest**

A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.

B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

C. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

D. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

## **Article XIV Rebates, Kickbacks or Other Unlawful Consideration**

CONSULTANT warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall

have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**Article XV Prohibition of Expending Local Agency, State, or Federal Funds for Lobbying**

A. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative Contract.

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative Contract; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

**Article XVI Statement of Compliance**

A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program

requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the 5 applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full.

Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Contract.

C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

D. The Consultant, with regard to the work performed by it during the Contract shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Contract covers a program whose goal is employment.

#### **Article XVII Debarment and Suspension Certifications**

A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government

wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to LOCAL AGENCY.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

## **SECTION 2**

### **STANISLAUS COUNTY PROVISIONS**

#### **PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT FOR ON-CALL MATERIALS TESTING SERVICES**

##### **1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT**

**1.1 Scope of Services:** Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") and Consultant's Response to County's RFP (the "Response") which are incorporated by reference in Section 2.0 entitled "Contract Documents".

Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of services does not exceed \$100,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$100,000 shall be approved by resolution of the Board of Supervisors for the County.

**1.2 Professional Practices:** All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

**1.3 Representations:** Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth in Section 3.1 - Compensation. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services.

**1.4 Compliance with Laws:** Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

**1.5 Non-Discrimination:** During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment 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 disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. Consultant and its officers, employees, agents, representatives or subconsultants shall comply with all

applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

**1.6 Non-Exclusive Agreement:** Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

**1.7 Delegation and Assignment:** This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subconsultant(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

**1.8 Subcontracting:** Nothing contained in this contract or otherwise, shall create any contractual relation between County and any subconsultants(s), and no subconsultant shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to County for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from County's obligation to make payments to the Consultant.

Consultant shall perform the services with resources available within its own organization; and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by the County, except that, which is expressly identified in the approved Cost Proposal.

Any substitution of subconsultants must be approved in writing by the County.

**1.9 Conflict of Interest:** Consultant shall disclose any financial, business, or other relationship with County that may have an impact upon the outcome of this agreement, or any ensuing County construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this agreement, or any ensuing County construction project, which will follow.

Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

Consultant hereby certifies that neither Consultant, nor any firm affiliated with the Consultant will bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement. An affiliated firm is one, which is subject to the control of the same persons through joint ownership, or otherwise.

Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this

agreement shall be eligible to bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement.

**1.10 Covenant Against Contingent Fees:** Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**1.11 Rebates, Kickbacks or Other Unlawful Consideration:** The Consultant warrants that this agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any County employee. For breach or violation of this warranty, County shall have the right in its discretion; to terminate the agreement without liability; to pay only for the value of the work actually performed; or to deduct from the agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**1.12 Prohibition of Expending State or Federal Funds for Lobbying:** The Consultant certifies to the best of his or her knowledge and belief that:

No, state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of the Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

**1.13 Debarment and Suspension Certification:** The Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the Consultant has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct with the past three (3) years. Any exceptions to this certification must be disclosed to the County.

Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to who exceptions apply, initiating agency, and dates of actions.

## **2.0 CONTRACT DOCUMENTS**

Contract documents consist of the following documents, including all changes, addenda, and modifications thereto:

1. Agreement and all attachments
  - a. Exhibit A – Fee Schedule
  - b. Exhibit B – Insurance Requirements
2. County's Request for Proposal
3. Consultant's Response

## **3.0 COMPENSATION AND BILLING**

**3.1 Compensation:** For each task or project let under this Agreement Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "A", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subconsultants at the hourly rates specified in the Fee Schedule. Fee Schedule rates shall include direct salary costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. Consultant's compensation under this Agreement shall in no case exceed **Three Hundred Seventy-Five Thousand Dollars (\$375,000)** during the term of this Agreement.

The County may retain five percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

**3.2 Reimbursements:** In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for



reimbursement shall be accompanied by a copy of the original invoice.

**3.3 Additional Services:** Consultant shall not receive compensation for any services provided outside the scope of services specified in the County's ("RFP") and the Consultant's ("Response") and also as specified in each project scope of services unless the County or the Project Manager for the project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

**3.4 Method of Billing:** Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

**3.5 Records and Audits:** Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County, its Project Manager, The State, State Auditor, FHWA, or any duly authorized representative of the Federal Government for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

**3.6 Extension of Term of Agreement:** The original Fee Schedule shall apply to the extension of the term of the agreement unless renegotiated and approved by both parties in writing.

**3.7 Cost Principles:** The Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.

The Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to the County.

All subcontracts in excess of \$25,000 shall contain the above provisions.

#### **4.0 TIME OF PERFORMANCE**

**4.1 Commencement and Completion of Work:** The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed for each separately approved Project. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in each Project Scope of Services. Each Project Schedule may be amended by mutual agreement of the

parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

**4.2 Excusable Delays:** Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

**4.3 Completion of Agreement:** This Agreement shall be completed no later than September 30, 2020, unless extended by amendment.

## **5.0 TERM OF CONTRACT AND TERMINATION**

**5.1 Term:** This Agreement shall commence on the date of the award of this agreement and shall continue for a period of thirty-six months, or until all work on each project let during the thirty-six month period is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Additionally, the term of this agreement may be extended for an additional twenty-four months by the parties mutual agreement.

**5.2 Notice of Termination:** The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

**5.3 Compensation:** In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "A". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

**5.4 Documents:** In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps, reports, correspondence, and all electronic files shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

## 6.0 INSURANCE REQUIREMENTS

6.1 **Coverage Required:** Contractor shall obtain, and maintain at all times during the term of this Agreement, insurance coverage in the amounts and coverage specified in the attached "Exhibit B."

## 7.0 INDEMNIFICATION

7.1 **Indemnification:** To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnitee") from and against any and all claims, suits, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, (collectively, "losses") which are founded upon, arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subconsultants, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the County, its agents, employees, and representatives. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

7.2 **Duty to Defend:** The duty of Consultant to indemnify and save harmless as set forth herein, shall include both the duty to indemnify and at Consultant's own cost and expense the duty to defend as set forth in Section 2778 of the California Civil Code and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

7.3 **Duty to Cooperate:** Each party shall notify the other party within ten (10) days in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement. Specifically, Consultant shall take all steps necessary to assist the County in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

7.4 **Patent Rights:** Consultant represents that professional services provided by Consultant pursuant to this Agreement does not infringe on any other copyrighted work. Consultant shall defend, indemnify and hold harmless the County from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the County of any articles or services supplied under this agreement.

The foregoing provisions in this section "Indemnification" shall survive the term and termination of this Agreement.

**8.0 GENERAL PROVISIONS**

**8.1 Entire Agreement:** This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

**8.2 Representatives:** The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

**8.3 Project Managers:** County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

**8.4 Removal of Personnel or Sub-Consultants:** If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

**8.5 Notices:** Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:                    David Leamon, Deputy Director  
Stanislaus County Public Works  
1716 Morgan Road  
Modesto, CA 95358

If to Consultant:                Randy Ludwig, Sr. Project Manager  
Engeo Incorporated  
17278 Golden Valley Parkway  
Lathrop, CA 95330

**8.6 Attorneys' Fees:** In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

**8.7 Claims Filed by County's Construction Contractor:** If claims are filed by County's construction contractor relating to work performed by Consultant's personnel, and additional information or assistance from Consultant's personnel is required in order to evaluate or defend against such claims; Consultant agrees to make its personnel available for consultation with County's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

Consultant's personnel that County considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from County. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for Consultant's personnel services under this contract.

**8.8 Governing Law:** This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

**8.9 Assignment:** Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

**8.10 Independent Contractor:** Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

**8.11 Confidentiality:** The Consultant agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

Permission to Disclose information on one occasion, or public hearing held by the County relating to the contract, shall not authorize the Consultant to further disclose such information, or disseminate the same on any other occasion.

The Consultant shall not comment publicly to the press or any other media regarding the contract or the County's actions on the same, except to the County's staff, Consultant's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.

The Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the County, and receipt of the County's written permission.

Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

**8.12 National Labor Relations Board Certification:** In accordance with Public Contract Code Section 10296, Consultant hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant with the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

**8.13 Ownership of Documents:** Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

**8.14 Reuse of Design Documents:** Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

**8.15 Public Records Act Disclosure:** Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subconsultants, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

**8.16 Responsibility for Errors:** Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

**8.17 Order of Precedence:** In the event of inconsistency among any of the Contract Documents, the following order of precedence applies:

1. This agreement shall prevail over all other documents;
2. The attachments to this agreement shall prevail over the RFP and Response;
3. The RFP shall prevail over the Response; and,
4. Section 2/St Stanislaus County Provisions shall prevail over Section 1/Caltrans Mandatory Fiscal & Federal Provisions.

**8.18 Costs:** Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

**8.19 No Third Party Beneficiary Rights:** This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

**8.20 Construction:** The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

**8.21 Amendments:** This Agreement may be amended only by a writing executed by the parties hereto or their respective successors and assigns.

**8.22 Waiver:** The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

**8.23 Severability:** If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the

offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

**8.24 Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

**8.25 Corporate Authority:** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

By:   
Matt Machado, Director  
Department of Public Works

ENGEO INCORPORATED

By: 

APPROVED AS TO FORM:  
John P. Doering  
County Counsel

By:   
Amanda DeHart  
Deputy County Counsel



**EXHIBIT A**  
**FEE SCHEDULE**

**REQUEST FOR PROPOSAL  
MATERIALS TESTING & INSPECTION SERVICES**

**RFP WORKSHEET FOR TESTING & INSPECTION SERVICES  
ENGEO Incorporated**

Testing & Inspection services may include, but not be limited to the following items:

TEST NO.	TESTING /INSPECTION SERVICE DESCRIPTION	PRICE PER TEST (\$)	TURN AROUND TIME (DAYS)
1	HOURLY RATE FOR SOIL TECHNICIAN CALTRANS (A CERTIFIED WITH NUCLEAR DENSITY GAUGE)	\$160.00	Same Day
2	HOURLY RATE FOR A.C.I. FIELD TESTING TECHNICIAN- GRADE 1	\$160.00	Same Day
3	HOURLY RATE FOR ASPHALT TECHNICIAN CALTRANS (A CERTIFIED)	\$160.00	Same Day
4	HOURLY RATE FOR I.C.B.O./A.W.S SPECIAL INSPECTOR (CONCRETE/MASONRY/WELDING)	\$170.00	Same Day
5	FIELD COMPACTION TESTS USING CALIFORNIA 231 TEST METHOD (NUCLEAR GAGE TESTING WITH MINIMUM OF 3 NUCLEAR SHOTS PER TEST INCLUDING MOISTURE - ROAD WORK)	(INCLUDED IN HOURLY RATE)	Same Day
6	LABORATORY COMPACTION TEST USING CALIFORNIA 216 TEST METHOD (PART II MAX WET DENSITY & PERCENT RELATIVE COMPACTION)	\$320.00	1
7	AGGREGATE TESTING USING CALIFORNIA 202 METHOD OF TESTS FOR SIEVE ANALYSIS OF FINE AND COURSE AGGREGATES	\$150.00	1
8	AGGREGATE TESTING USING CALIFORNIA 205 METHOD FOR DETERMINING PERCENTAGE OF CRUSHED PARTICLES	\$150.00	3
9	SAND EQUIVALENT USING CALIFORNIA 217 TEST METHOD	\$175.00	3
10	BULK SPECIFIC GRAVITY & DENSITY OF BITUMINOUS MIXTURES USING CALIFORNIA 308 TEST METHOD	\$525.00	1
11	DETERMINATION OF ASPHALT BINDER CONTENT OF BITUMINOUS PAVING MIXTURES BY THE IGNITION METHOD USING CALIFORNIA 382 TEST METHOD	\$300.00	1
12	RESISTANCE "R" VALUE OF TREATED AND UNTREATED BASES, SUBBASES, AND BASEMENT SOILS BY THE STABILOMETER TEST USING CALIFORNIA 301 TEST METHOD	\$450.00	3
13	GRAB BAG SOIL SAMPLING PICKUP (UP TO 75 POUNDS) WITHIN STANISLAUS COUNTY - PER SITE (EACH)	\$150/Hour	Same Day
14	ASTM D6938-08 "STANDARD TEST METHOD FOR IN PLACE DENSITY & WATER CONTENT OF SOIL & SOIL-AGGREGATE BY NUCLEAR METHODS"	(INCLUDED IN HOURLY RATE)	Same Day
15	ASTM D1557-07, "STANDARD TEST METHODS FOR LABORATORY COMPACTION CHARACTERISTICS OF SOIL USING MODIFIED EFFORT"	\$320.00	1
16	SAMPLING FRESH CONCRETE USING CALIFORNIA 539 TEST METHOD AND MAKING HANDLING AND STORING CONCRETE COMPRESSIVE TEST SPECIMENS IN THE FIELD USING CALIFORNIA 540 TEST METHOD	(INCLUDED IN HOURLY RATE)	Same Day
17	CONCRETE CYLINDER PICKUP PER SET OF CYLINDERS WITHIN STANISLAUS COUNTY (EACH)	\$150.00/HR	Same Day

18	CALTRANS TEST METHOD 366. STABILOMETER VALUE"	\$750.00	1
19	CALTRANS TEST METHOD 367. "OPTIMUM BITUMEN CONTENT"	\$200.00	1
20	CALTRANS TEST METHOD 370 "MOISTURE CONTENT OF BITUMINOUS MIXTURES OR GRADED MINERALS AGGREGATES USING MICROWAVE OVENS"	\$200.00	1
21	CALTRANS TEST 375. "RELATIVE COMPACTION OF ASPHALT CONCRETE IN PLACE"	(INCLUDED IN HOURLY RATE)	Same Day
22	CALTRANS TEST 202 "SIEVE ANALYSIS OF FINE AND COARSE AGGREGATES"		
23	ASTM D4318. "PLASTICITY INDEX"	\$320.00	1
24	ASTM D422. "SIEVE ANALYSIS OF SOIL ASTM D422" WITH AND WITHOUT HYDROMETER	\$230.00 \$150.00	3 1
25	CALTRANS TEST METHOD 382 "ASPHALT DETERMINATION OF ASPHALT BINDER CONTENT OF BITUMINOUS PAVING MIXTURES BY THE IGNITION METHOD"	\$300.00	1
26	CHEMICAL TESTING OF TREATED AND UNTREATED SOILS AND AGGREGATE BASES. ASTM TEST METHOD D 2170 "KINEMATIC VISCOSITY" ASTM TEST METHOD 2171. "ABSOLUTE VISCOSITY" AND ASTM D5 "PENETRATION"	\$350.00	1
27	PERCOLATION TESTING TO DETERMINE SOILS PERCOLATION RATE (FOR TRENCH AND BED PERCOLATION)	\$1,800.00	1
28	CALTRANS TEST 521 - METHOD OF TEST FOR COMPRESSIVE STRENGTH OF MOLDED CONCRETE CYLINDERS	\$35.00/ CYLINDER	PER BREAK SCHEDULE

*ENGEO complies with all applicable local and state labor laws, including prevailing wage  
Hourly rates presented above include applicable equipment fees and prevailing wage rate premiums*



Expect Excellence

GEOTECHNICAL  
ENVIRONMENTAL  
WATER RESOURCES  
CONSTRUCTION SERVICES

**PREFERRED CLIENT FEE SCHEDULE  
PROFESSIONAL SERVICES  
Effective until March 31, 2018**

President .....	\$315.00 per hour
Principal Engineer/Geologist/Seismologist .....	\$260.00 per hour
Associate Engineer/Geologist/Seismologist .....	\$230.00 per hour
Senior Engineer/Geologist/Seismologist .....	\$205.00 per hour
Project Engineer/Geologist/Seismologist .....	\$185.00 per hour
Environmental Scientist .....	\$175.00 per hour
Staff Engineer/Geologist/Seismologist .....	\$165.00 per hour
Assistant Engineer .....	\$138.00 per hour
Construction Services Manager .....	\$159.00 per hour
Senior Field Representative II .....	\$144.00 per hour**
Senior Field Representative I .....	\$128.00 per hour**
Field Representative .....	\$118.00 per hour**
Environmental Technician .....	\$125.00 per hour**
Senior Laboratory Technician .....	\$150.00 per hour
Laboratory Technician .....	\$135.00 per hour
CAD/GIS Specialist .....	\$129.00 per hour
Network Administrator .....	\$195.00 per hour
Project Assistant .....	\$115.00 per hour

- \* Two-hour minimum portal to portal. Travel time, pick-up and delivery will be billed based on normal hourly rates, portal to portal.
- \* **OVERTIME RATES:** Rates increased by factor of 1.5 for all hours worked in excess of eight (8) Monday through Friday, and the first eight (8) hours worked on Saturday. Rates increased by factor of 2.0 for all hours worked in excess of twelve (12) Monday through Friday, all hours worked in excess of eight (8) on Saturday and all hours worked on Sunday and holidays.
- \*\* For Prevailing Wage projects, increase the hourly rate by \$15.
- \*\* Rates increased by factor of 1.25 for night shift hours (hours commencing after 4:00 p.m. or before 4:00 a.m.); rates increased by factor of 1.875 (an additional factor of 1.5) for all night shift hours in excess of eight (8).

**ADDITIONAL SERVICES OFFERED**

In addition to our core services of geotechnical, hydrologic and environmental engineering, including construction-phase testing and observation, ENGEO provides clients with services for establishment and management of Geologic Hazard Abatement Districts (GHAD) and for Entitlement and Permitting Support (EPS). For more information about these services and associated pricing, please contact ENGEO at (925) 866-9000.

**OTHER FEES**

- Equipment and materials will be charged in addition to the above hourly rates.
- Outside Consultants, Subcontracted Services and Equipment Rental ..... Cost plus 20%
- Deposition, Mediation, Arbitration, or Court Appearance (Minimum Charge) .....\$2,000.00 half day, \$4,000.00 full day

**TERMS**

Invoices will be submitted at completion of work or at approximately four week intervals and are due and payable upon receipt. Statements will be issued at monthly intervals. Charges not paid within 30 days of invoice date will accrue a late charge at a rate of 1.5 percent per month. In the event it becomes necessary to commence suit to collect amount due, Client agrees to pay attorney's fees and costs, as the court may deem reasonable until amount is paid. Fees will be applicable for one year from the effective date above; thereafter, fees will be adjusted annually. Our fees will be billed using an invoice format produced by a standardized accounting software package. A more customized itemization of charges and backup data will be provided upon Client's requests, but at additional fees. Final reports may be withheld until outstanding invoices are paid in full.

Many risks potentially affect ENGEO by virtue of entering into this agreement to perform services on behalf of client. A principal risk is the potential for human error by ENGEO. For client to obtain the benefit of a fee that includes a nominal allowance for dealing with our liability, client agree to limit ENGEO's liability to Client and all other parties for claims arising out of our performance of the services described in the agreement. The aggregate liability will not exceed \$50,000 (or ENGEO's fee, whichever is greater, but not more than \$1,000,000) for professional acts, errors, or omissions, including attorney's fees and costs that may be awarded to the prevailing party and client agrees to indemnify and hold harmless ENGEO from and against all liabilities in excess of the monetary limit established above.

## EQUIPMENT AND MATERIALS CHARGES

DESCRIPTION	COST PER UNIT (\$)	UNIT
Air Content Meter	7.00	hour
Bailers (Disposable)	8.00	each
Concrete Crack Monitor	20.00	each
Coring Machine	25.00	hour
Electronic Water Level Indicator	5.00	hour
Engineering Analysis Software	20.00	hour
Equipment Transport(er)	100.00	hour
Exploration Equipment (Percussion Penetrometer)	50.00	hour
Floor Flatness/Floor Level Equipment	20.00	hour
Generator	15.00	hour
GIS Website Portal Maintenance	100.00	month
GIS/GPS Handheld Device	5.00	hour
GIS/GPS/Drone Survey Grade Equipment	90.00	hour
Hand Auger and Soil Sampler	15.00	hour
Hydraulic Pull-Test Equipment	15.00	hour
Interface Probe	2.00	hour
Magnetic Particle Test Equipment	8.00	hour
Moisture Content Test Equipment	6.00	hour
Multi-Parameter Water Meter	15.00	hour
pH Meter/Turbidity Meter	10.00	hour
Photo Ionization Detector	15.00	hour
R Meter (Pachometer)	15.00	hour
Sampling Tubes	10.00	each
Sand Cone Equipment and Material	5.00	hour
Schmidt Hammer	20.00	hour
Skidmore Wilhelm Bolt Tension Calib.	10.00	hour
Slope Inclinometer/Settlement Indicator/VW Readout	50.00	hour
Torque Wrench	12.00	hour
Transfer Pump	3.00	hour
Ultrasonic Equipment	25.00	hour
Vapor Emission Test Kit	25.00	kit
Vector Conversion	60.00	conversion
Vehicle, mileage, nuclear gauge, misc. equipment, wireless communication	23.00	hour
Vehicle, mileage, misc. equipment, wireless communication	14.00	hour
Vibration Monitor	1800.00	month
Water Sampling Pumps	20.00	hour
Bridge Toll	actual	actual
Mileage	.78	mile
Parking	actual	actual
Trailer	15.00	hour
AutoCAD, Civil 3D, GIS, Drone Data Processing	21.00	hour
Photocopies Black & White	0.25	each
Photocopies Color 11 x 17	1.50	each
Photocopies Color 8½ x 11	1.00	each
Plot - Black & White	3.00	square foot
Plot - Color	4.00	square foot
Postage	actual	actual
Scan - Black & White	1.50	each
Scan - Color	3.75	each
Telephone	0.50	minute

## SUMMARY OF LABORATORY FEES Effective until March 31, 2018

Our Laboratories are accredited by AASHTO, CCRL, Caltrans, DSA, and the US Army Corps of Engineers

LAB CODE	TEST SPECIFICATION	STANDARD TURNAROUND (BUSINESS DAYS)	STANDARD PRICING	RUSH TURNAROUND (BUSINESS DAYS)	RUSH PRICING
<b>SOIL AND ROCK</b>					
8800	Caltrans Relative Compaction, CT216	3	\$320	Same Day	\$640
9100	Clay Lumps and Friable Particles, ASTM C142	5	\$100	Next Day	\$200
9130	Cleanness Value, CT 227 each	5	\$200	2	\$400
9650	Collapse Test, ASTM D5333-03	10	\$300	3-7	\$600
8310	Compaction, ASTM D1557 (A-C)	5	\$320	2	\$640
8311	Compaction Point, AASHTO T272	5	\$320	2	\$640
8312	Compaction, ASTM-1557 (A-D) or ASTM-D698 with Correction	5	\$385	2	\$770
8313	Compaction, ASTM 1557 (A - D), Same Day Preliminary Results	1	\$640	N/A	N/A
8314	Compaction, ASTM-1557 or ASTM-D698, Same Day with Correction	1	\$770	N/A	N/A
8315	Compaction, Rock Correction, ASTM D4718	5	\$65	Next Day	\$130
8316	Compaction, ASTM D4253, Vibratory Table	5	\$375	2	\$750
8220	Consolidation – Incremental Loading ASTM D2435, Method A	32	\$525	16	\$1,050
8221	Consolidation – Incremental Loading ASTM D2435, Method B	32	\$525	16	\$1,050
8230	Consolidation, ASTM D2435 Unload – Reload Cycle	4	\$50	Next Day	\$100
8410	Consolidation – CRS, ASTM D4186	5	\$525	4	\$1,050
8450	Direct Shear – CD, Residual (3-points, 3-cycles per point) ASTM D3080 Modified	25	\$2,000	20	\$4,000
8201	Direct Shear – CD, Slow Additional Cycles (each) ASTM D3080	2	\$150	N/A	N/A
8202	Direct Shear – CD, (2-points) ASTM D3080	8	\$420	5	\$840
8203	Direct Shear – CD, (3-points) ASTM D3080	12	\$630	8	\$1,260
8204	Direct Shear – CD, (4-points) ASTM D3080	16	\$840	12	\$1,680
8891	Cyclic Simple Shear Test (CSS), ASTM D6528	5	\$2,000	5	\$4,000
8892	Monotonic Simple Shear Test, ASTM D6528	5	\$1,000	5	\$2,000
8900	Durability Index, CT229	4	\$210	Next Day	\$420
8320	Expansion Index, ASTM D4829	8	\$300	4	\$600
8321	Expansion Index, ASTM D4829 - Lime Treated in Lab	Dependent on cure time	\$400	Dependent on cure time	\$800
9630	Fine Aggregate Angularity Percentage, CT 234, AASHTO T304, Method A	5	\$150	Next Day	\$300
8990	Laboratory Miniature Vane Shear (peak Value), ASTM D4648	5	\$100	Next Day	\$200
8160	Moisture Content & Unit Weight, ASTM D7263	5	\$55	Next Day	\$110
8140	Moisture Only, ASTM D2216, CT 226	5	\$30	Next Day	\$60
8150	Moisture Only, ASTM D4643, CT 370 (By Microwave oven)	5	\$100	Same Day	\$200
9590	Organic Content of Soil ASTM D2974	5	\$125	Next Day	\$250
9090	Organic Impurities, ASTM C40	5	\$75	Next Day	\$150
9120	Percent Crushed Particles, CT205	5	\$150	Same Day	\$300
9110	Percent Flat or Elongated Particles, ASTM D4791, CT 235	5	\$150	Same Day	\$300
8980	Soil pH, percent Lime for Stabilization, ASTM D6276 (Eades and Grimm)	5	\$400	Next Day	\$800

LAB CODE	TEST SPECIFICATION	STANDARD TURNAROUND (BUSINESS DAYS)	STANDARD PRICING	RUSH TURNAROUND (BUSINESS DAYS)	RUSH PRICING
8040	Permeability, Falling Head or Constant Head, ASTM D5084, D2434	8	\$450	4	\$900
8870	Soil pH, ASTM D4972, CT 643	5	\$75	Same Day	\$150
8190	Plasticity Index, Dry Method - ASTM D4318	5	\$190	Next Day	\$380
8191	Plasticity Index, Wet Method - ASTM D4318 (ASTM Default method)	5	\$230	Next Day	\$460
851	Rock Core Unconfined Compressive Strength, ASTM D7012	5	\$250	Same Day	\$500
8970	R-Value - Lime Treated, ASTM D2844 CT301	6	\$500	3	\$1,000
8290	R-Value, ASTM 2844, CT301	6	\$400	3	\$800
8280	Sand Equivalent, CT 217, ASTM D2419	5	\$175	Next Day	\$350
8261	Dry Sieve, ASTM D1140, C117	5	\$90	Next Day	\$180
8262	#200 Wash, ASTM D1140, C117	5	\$85	Next Day	\$170
8263	Sieve & #200 Wash, ASTM D422, C136, CT202	5	\$150	Next Day	\$300
8264	Sieve & Hydrometer, ASTM D422	5	\$230	2	\$460
8530	Special Testing/Sample Description (ASTM D2487)	Hourly	\$145	N/A	N/A
8250	Specific Gravity, ASTM D854	5	\$225	Next Day	\$450
8251	Specific Gravity, ASTM C127 or C128	5	\$125 Per Size Fraction	Next Day	\$250 Per Size Fraction
8660	Specimen Remolding and/or Lab Mixing (per specimen)	Varies	70	Dependent on type of remolding	\$140
9070	Sulfate Soundness, CT 214, ASTM C88	6	\$185/ Fraction	Dependent on number of fractions	\$370/ Fraction
8110	Sulfate Testing in Soils CT417	5	\$80	Next Day	\$160
8111	Sulfate Testing in Soils ASTM C1580	5	\$190	Next Day	\$380
8490	Swell Test A, ASTM D4546	8	\$300/Point	4	\$600/Point
8500	Swell Test B, ASTM D4546	5	\$300	Dependent on material behavior	\$600
8350	Isotropic Triaxial Compression – CU, Single Specimen, Multistage Test ASTM D4767 - Modified	Varies	\$400/Stage	Dependent on number of stages and material type	\$500
8340	Isotropic Triaxial Compression – CU (1 point ) ASTM D4767	5	\$475	4	\$950
8341	Isotropic Triaxial Compression – CU (2- points) ASTM D4767, USACE	9	\$950	8	\$1,900
8342	Isotropic Triaxial Compression – CU (3- points) ASTM D4767, USACE	14	\$1,425	12	\$2,850
8343	Isotropic Triaxial Compression – CU (4- points) ASTM D4767, USACE	18	\$1,900	15	\$3,800
8330	Isotropic Triaxial Compression – UU (per point) ASTM D2850, USACE	5	\$175	Next Day	\$350
8180	Unconfined Compression - Soils, ASTM D2166	5	\$115	Next Day	\$230
8181	Unconfined Compression, Lime/Cement-Treated Soil ASTM D1633	18	\$325	9	\$650
8182	Unconfined Compression, Lime/Cement-Treated Soil CTM 373	18	\$950	9	\$1,900
8183	Unconfined Compression, Lime/Cement -Treated Soil, Additional points	18	\$50	9	\$100
<b>CONCRETE</b>					
9220	Absorption, ASTM C642	6	\$450	Next Day	\$900
9010	Compression Test, Cores, ASTM C42	5	\$100	Same Day	\$200
9320	Compression Test, per 6" x 12" cylinder, ASTM C39	5	\$35	Same Day	\$70
9330	Compression Test, per 4" x 8" cylinder ASTM C39	5	\$30	Same Day	\$60
9340	Compressive Strength of Lightweight Insulating Concrete (ASTM C495)	5	\$150	Same Day	\$300
9020	Core Trimming, in Laboratory	5	\$50	Same Day	\$100

LAB CODE	TEST SPECIFICATION	STANDARD TURNAROUND (BUSINESS DAYS)	STANDARD PRICING	RUSH TURNAROUND (BUSINESS DAYS)	RUSH PRICING
9060	Laboratory Trial Batch, ASTM C192, Including Test Cylinders	5	\$1000	Same Day	\$2000
9080	Length Change (3 bars, 4 readings, up to 90 days), ASTM C157 modified	28-90	\$415	28-90	\$830
9050	Slab Moisture Determination Test Kit	5	\$30	Next Day	\$60
9000	Unit Weight of Lightweight Concrete Cylinders (ASTM C495)	5	\$50	Next Day	\$100
<b>CONCRETE BLOCK</b>					
9160	Compression, ASTM C140	5	\$80	Same Day	\$160
9180	Compression, Cores, ASTM C42	5	\$100	Same Day	\$200
9140	Moisture Content as Received, Absorption ASTM C140	5	\$80	Next Day	\$160
<b>MASONRY PRISMS</b>					
9190	Compression Test, Grouted Prisms, ASTM C1314	5	\$250	Next Day	\$500
9200	Trimming Grouted Prisms	5	\$75	Next Day	\$150
<b>MORTAR &amp; GROUT</b>					
9250	Compression Test 2" Mortar Cubes, ASTM C109	5	\$35	Next Day	\$70
9240	Compression, Grout Prisms, ASTM C39	5	\$50	Next Day	\$100
9230	Compression, Mortar Cylinder, ASTM C39	5	\$35	Next Day	\$70
<b>ASPHALTIC CONCRETE</b>					
8010	AC Correction Factor, ASTM D6307, CT 382	N/A	N/A	N/A	\$525
8020	RAP Aggregate Gradation Correlation Factor, Caltrans LP-9	N/A	N/A	N/A	\$2,850
8070	AC Maximum Density (Avg. of 5 Briquettes) D1188, CT308	N/A	N/A	N/A	\$525
8071	AC Maximum Density (Avg. of 5 Briquettes) D1188, CT 308 (S-Value is performed prior to LTMD)	N/A	N/A	N/A	\$413
8090	AC Maximum Theoretical Unit Weight ASTM D2041, CT 309 (Rice Specific Gravity)	N/A	N/A	N/A	\$330
9460	Asphalt Core Density (4" Core), ASTM D1188, CT308	N/A	N/A	N/A	\$120
9461	Asphalt Core Density (6" Core), ASTM D1188, CT 308	N/A	N/A	N/A	\$150
8532	Extraction by Centrifuge ASTM 2172	N/A	N/A	N/A	\$375
8531	Extraction by Ignition Oven, ASTM D6307, CT 382	N/A	N/A	N/A	\$300
8533	Extraction by Reflux Extractor, ASTM D2172 – Method B	N/A	N/A	N/A	\$675
8050	Stability Test (Avg. of 3 Briquettes), ASTM D1560, CT 366, (w/o Max. Density test)	N/A	N/A	N/A	\$750
<b>VOLUMETRIC PROPERTIES OF HMA</b>					
9660	Absorbed Asphalt Binder CT 367	N/A	N/A	N/A	\$200
9600	Air Void Content	N/A	N/A	N/A	\$200
9670	Bulk Specific Gravity – Admixture Blend CT 367	N/A	N/A	N/A	\$200
9640	Dust Proportions, CT 367, Caltrans LP-4	N/A	N/A	N/A	\$200
9680	Effective Asphalt Binder of Volume, CT 367	N/A	N/A	N/A	\$200
9690	Effective Binder Content, CT 367	N/A	N/A	N/A	\$200
9580	Effective Specific Gravity of Aggregate-Admixture Blend, CT 367	N/A	N/A	N/A	\$200
9620	Void Filled With Asphalt CT 367, LP-3	N/A	N/A	N/A	\$200
9610	Voids in Mineral Aggregate CT 367, LP-2	N/A	N/A	N/A	\$200
Note: Lab fees for volumetric properties of HMA per CT 367 are based on tests CT 202, CT 308, CT 309, and CT 382 have been completed.					
<b>HIGH STRENGTH BOLT TESTS</b>					
9800	Bolt Proof and Ultimate Load	5	\$110	Same Day	\$220
9810	Nut Proof Load	5	\$70	Same Day	\$140
9820	Hardness (bolts, nuts, washers, each)	5	\$45	Same Day	\$90
<b>FIREPROOFING</b>					
9990	Oven Dry Density, Fireproofing, per sample	5	\$100	Next Day	\$200



- Add three days to the estimated test duration for soil testing that requires remolded specimens.
- The above fees are reviewed annually and are subject to change. Additional tests are available upon request.
- Prices exclude field collection and transportation to the laboratory.
- Supplemental fees for laboratory preparation of specimens are charged on an hourly basis.
- Test duration implies the amount of time required to perform the test once started. Test start times are dependent on available labor and equipment.
- Testing fees and the test durations listed reflect standard business hours required to perform the test. Samples requiring premium handling will incur additional hourly personnel charges in accordance with the Laboratory Technician Rate presented on our Fee Schedule.
- Where tests are to be run on an immediate need basis (tests to be initiated out of order received and regardless of status of other previously received samples) the expediting fee is 100% of the listed unit rate.
- Sample storage is \$100 per month per cubic yard of storage space.
- There is a 3 pm cut-off time for sample delivery/test start time.
- Turnaround times are based on samples delivered to the laboratory before 3:00 pm. Turnaround on samples received after 3:00 pm will begin at 7:00 am the following business day.

**EXHIBIT B**

**INSURANCE REQUIREMENTS**

## EXHIBIT B

### Insurance Required for Most Contracts

*(Not for Professional Services or Construction Contracts)*

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

#### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than One Million Dollars (\$1,000,000) per incident or occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under the Agreement Insurance Services Office (ISO) Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage and transportation related pollution liability.
3. **Workers' Compensation Insurance** as required by the State of California, with Statutory Limits, and **Employer's Liability Insurance** with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

***Application of Excess Liability Coverage:*** Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

#### ***Other Insurance Provisions***

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### ***Additional Insured Status***

The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL and Auto policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in

connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

***Primary Coverage***

For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

***Reporting***

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees, agents or volunteers.

***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.

***Waiver of Subrogation***

Contractor hereby grants to County a waiver of any right to subrogation (except for Professional Liability) which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

***Acceptability of Insurers***

Insurance is to be placed with California admitted insurers (licensed to do business in California) with a current A.M. Best's rating of no less than A-VII, however, if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Approved Surplus Line Insurers (LASLI) maintained by the California Department of Insurance.

***Claims Made Policies***

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

***Verification of Coverage***

Contractor shall furnish the County with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All **certificates and endorsements are to be received and approved by the County before work commences**. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Subcontractors***

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

***Special Risks or Circumstances***

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Insurance Limits***

The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors. Contractor's obligation to defend, indemnify and hold the County and its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for Contractor to procure and maintain a policy of insurance.

[SIGNATURES SET FORTH ON THE FOLLOWING PAGE]

\_\_\_\_\_ Exempt from Auto – I will not utilize a vehicle in the performance of my work with the County.

\_\_\_\_\_ Exempt from WC – I am exempt from providing workers' compensation coverage as required under section 1861 and 3700 of the California Labor Code.

I acknowledge the insurance requirements listed above.

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

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

Vendor Name: Engeo Incorporated

---

*For CEO-Risk Management Division use only*

Exception: \_\_\_\_\_

Approved by CEO-Risk Management Division: Kevin Watts Date: 8/18/17