

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

DEPT: Public Works

BOARD AGENDA #: *C-1

AGENDA DATE: December 5, 2017

SUBJECT:

Approval of a Professional Design Services Master Agreement with Interwest Consulting Group to Provide On-Call Design and Construction Administration Services for Various Public Works Department Projects through December 5, 2020

BOARD ACTION AS FOLLOWS:

No. 2017-682

On motion of Supervisor Withrow, Seconded by Supervisor Olsen

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:


ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

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

DEPT: Public Works

Urgent

Routine



BOARD AGENDA #: *C-1

AGENDA DATE: December 5, 2017

CEO CONCURRENCE:

4/5 Vote Required: Yes No

SUBJECT:

Approval of a Professional Design Services Master Agreement with Interwest Consulting Group to Provide On-Call Design and Construction Administration Services for Various Public Works Department Projects through December 5, 2020

STAFF RECOMMENDATIONS:

1. Approve the Professional Design Services Master Agreement with Interwest Consulting Group to provide on-call design and construction administration services for various Public Works Department projects through December 5, 2020 in an amount not to exceed \$2,250,000.
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% of the original contract amount.
3. Authorize the Director of Public Works to take any appropriate action necessary to carry out the purpose and intent of these recommendations.

DISCUSSION:

In November 2016, the voters of Stanislaus County approved Measure L, a half-cent sales tax dedicated to local roads. The amount of funding for Stanislaus County is anticipated to be \$6 million per year. In April 2017, Senate Bill 1, a new state gas tax was passed that when fully implemented will bring an additional \$12 million of new revenue to Stanislaus County by 2020. In order to deliver the new stream of road and bridge maintenance projects, there is a need to supplement current engineering staff with on-call engineering staff. This allows the department to effectively deliver projects in a cost-effective manner, while maintaining flexibility to adjust workload demands and expectations.

On June 23, 2017, three engineering firms submitted qualifications for review. All qualifications were evaluated and scored based on qualifications only. The consulting fees were not part of the evaluation process. Below is a list of consultants that submitted qualification:

- Interwest Consulting Group
- NV5
- VSCE

These consultants were evaluated based on the following criteria:

Approval of a Professional Design Services Master Agreement with Interwest Consulting Group to Provide On-Call Design and Construction Administration Services for Various Public Works Department Projects through December 5, 2020

- Understanding of work to be done;
- Experience with similar kinds of work;
- Quality of staff for work to be done;
- Capability of developing innovative or advanced techniques;
- Familiarity with state and federal procedures;
- Financial responsibility; and
- Demonstrated technical ability.

Public Works staff reviewed, evaluated, and ranked the consultants based on the above criteria, in the following order:

Ranking	Consultant
1	Interwest Consulting Group
2	VSCE
3	NV5

Public Works selected Interwest Consulting Group as the most qualified consultant based on the results of the evaluation criteria.

The Professional Design Services Master Agreement will commence on December 5, 2017 and will expire on December 5, 2020. The County may extend this agreement on a year-to-year basis; however, in no case shall the renewal extend beyond two years from the expiration date.

POLICY ISSUE:

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

FISCAL IMPACT:

The agreement will have a not to exceed amount of \$2,250,000. Design and construction administration services will be awarded on an as-needed basis per purchasing policy. Services associated with this agreement will be funded by Measure L and Senate Bill 1 funds, as well as other funds that become available. Funding for the anticipated projects is available in the Fiscal Year 2017-2018 Public Works Adopted Final 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 all design and construction regulations and requirements applicable to County projects are in compliance.

Approval of a Professional Design Services Master Agreement with Interwest Consulting Group to Provide On-Call Design and Construction Administration Services for Various Public Works Department Projects through December 5, 2020

STAFFING IMPACT:

Public Works staff will administer the necessary consultant agreements and manage the projects.

CONTACT PERSON:

Matt Machado, Public Works Director

Telephone: (209) 525-4153

ATTACHMENT(S):

1. Professional Design Services Master Agreement with Interwest Consulting Group

ATTACHMENT 1
INTERWEST AGREEMENT

STANISLAUS COUNTY

PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT FOR ON-CALL PROJECT MANAGEMENT SERVICES (Design and Construction Administration)

THIS MASTER AGREEMENT, hereinafter referred to as "Agreement" is made and entered into on this 5th day of December, 2017, by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and Interwest Consulting Group, hereinafter referred to as "CONSULTANT".

Scope of Services

To provide supplemental project management and engineering services for the Engineering Divisions within Public Works.

Consultant's Compensation

Not to exceed Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) during the term of the Agreement.

Start Date – End Date

December 5, 2017 thru December 5, 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 24, 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 October 24, 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 \$2,250,000. 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:

Design Projects

Chris Brady, Deputy Director
Stanislaus County Public Works
1716 Morgan Road
Modesto, CA 95358

Construction Projects

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 \$2,250,000.

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 \$2,250,000.

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 it's 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 PROJECT MANAGEMENT SERVICES (Design and Construction Administration)

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, except as set forth in Exhibit "A". Consultant's compensation under this Agreement shall in no case exceed Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) 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 December 5, 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 (Design Projects)

Chris Brady, Deputy Director
Stanislaus County Public Works
1716 Morgan Road, Modesto, CA 95358
Phone: (209) 525-4184; Fax: (209) 541-2505
bradyc@stancounty.com

If to County (Construction Projects)

David Leamon, Deputy Director
Stanislaus County Public Works
1716 Morgan Road, Modesto, CA 95358
Phone: (209) 525-4151; Fax: (209) 541-2505
leamond@stancounty.com

If to Consultant: Theron Roschen, PE Municipal Services Manager
Interwest Consulting Group
9300 W. Stockton Blvd., Suite 105, Elk Grove, CA 95758
Phone: (916) 842-1060; Fax: (916) 781-7597
troschen@interwestgrp.com

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.

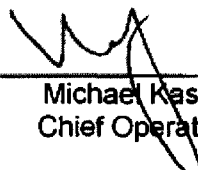
8.25 Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

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

COUNTY OF STANISLAUS

By: 
Matt Machado, Director
Department of Public Works

INTERWEST CONSULTING GROUP

By: 
Michael Kashiwagi, PE
Chief Operations Officer

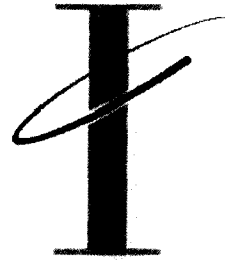
APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Amanda DeHart
Deputy County Counsel

EXHIBIT A
FEE SCHEDULE

October 27, 2017



Stanislaus County Department of Public Works
Mr. David L. Leamon, PE
1716 Morgan Road
Modesto, CA 95358

RE: Estimated Billing Rates

Dear Mr. Leamon:

As requested in the Request for Proposals to Provide On-Call Project Management for Future Projects, enclosed you will find Estimated Billing Rates for Interwest Consulting Group as well as our teaming partner, Quincy Engineering.

The rates displayed in the fee schedule below reflect Interwest's current fees. Hourly rates will be adjusted yearly on July 1, with an increase of 3% for the duration of this contract. In addition, Interwest does not charge for shipping, supply, or material costs.

Please feel free to Michael Kashiwagi at mkashiwagi@interwestgrp.com or 916.273.4685 if you have any questions or would like additional information.

Respectfully submitted,

INTERWEST CONSULTING GROUP

Interwest Consulting Group, Inc.
1613 Santa Clara Drive, Suite 100
Roseville, CA 95661



Billing Rates

The rates displayed in the fee schedule below reflect Interwest's current fees. Hourly rates will be adjusted yearly on July 1, with an increase of 3% for the duration of this contract.

CLASSIFICATION	HOURLY BILLING RATE
Engineering	
Principal in Charge.....	\$175
Project Manager.....	\$150
Traffic Engineer.....	140
Supervising Engineer.....	140
Senior Engineer.....	130
Engineering Associate III.....	115
Engineering Associate II.....	105
Engineering Associate I.....	95
Engineering Technician III.....	85
Engineering Technician II.....	80
Engineering Technician I.....	75
Student Trainee.....	30
Grading Plans Examiner.....	120
 Building & Safety Services	
Certified Building Official.....	135
Licensed Engineer Building Plans Examiner.....	130
ICC Certified Plans Examiner.....	105
Senior Structural Engineer.....	130
Senior Plan Review Architect.....	125
Senior Plans Examiner.....	105
Fire Plans Examiner.....	100
CASp.....	100
Permit Technician.....	60
ICC Certified Building Inspector.....	95
Inspector III.....	85
Inspector II.....	75
Inspector I.....	60
Code Enforcement Officer.....	80
 Construction Management	
Construction Manager.....	130
Assistant Construction Manager.....	120
Supervising Public Works Observer.....	115
Senior Public Works Observer.....	105
Public Works Observer III.....	95
Public Works Observer II.....	90
Public Works Observer I.....	85

Transportation

Supervising Transportation Planner	130
Senior Transportation Planner	120
Associate Transportation Planner III	110
Associate Transportation Planner II	100
Associate Transportation Planner I	90

Real Estate

Real Estate Property Manager	150
Senior Real Property Agent	130
Real Property Agent	110
Real Estate Technician	80
Senior Administrative	70

Geographic Information Systems

GIS Project Manager	130
Database Administrator	125
Senior GIS Analyst	120
GIS Analyst	95
GIS Technician	70

Information Technology

IT Project Manager	130
Network Engineer	125
IT Senior Analyst – Project Manager	125
IT Analyst	100
IT Technician	70

Administrative

Management Analyst II	90
Management Analyst I	80
Senior Administrative	70
Administrative III	65
Administrative II	60
Administrative I	55



Stanislaus County - On Call Project Management
Year 2017 Hourly Rates

Rates are effective January 1, 2017 through December 31, 2017

Labor by Classification	Hourly Rate
Principal Engineer/Principal-in-Charge	\$70 - \$98
Associate Principal Engineer	\$60 - \$87
Senior Engineer	\$49 - \$79
Associate Engineer	\$32 - \$63
Assistant Engineer I*	\$27 - \$42
Assistant Engineer II*	\$42 - \$54
Senior Engineering Tech*	\$32 - \$51
Engineering Tech/Assistant*	\$21 - \$41
CAD Manager	\$34 - \$56
CAD Tech*	\$22 - \$37
Student Assistant/Intern*	\$16 - \$25
Administrative Assistant/Support Staff*	\$12 - \$50
Senior Project Manager/Proj Manager	\$52 - \$87
Project Manager Assistant	\$25 - \$46
Project Engineer	\$37 - \$79
Resident Engineer/Bridge Rep	\$43 - \$79
Senior Inspector*	\$36 - \$66
Inspector*	\$26 - \$51
<u>Environmental</u>	
Environmental Manager	\$53 - \$68
<u>Surveying - Office Classifications</u>	
Senior Surveyor/ Survey Department Manager	\$40 - \$63
Associate Surveyor/Project Surveyor	\$37 - \$48
Survey Technician*	\$29 - \$43
	-
<u>Surveying - Field Classifications</u>	
Party Chief*	\$29 - \$63
Instrumentman*	\$29 - \$48
Chainman/Rodman*	\$29 - \$48
One Man Crew*	\$29 - \$63
Two Man Crew*	\$75 - \$135
<u>Overhead Rate</u>	172.80%

Other Direct Costs	
Office Computer & Software	Included in Overhead
Office Phone/Cell/Fax	Included in Overhead
Reproduction	
Black & White in office	Included in Overhead
Color in office	Included in Overhead
Vendor	Cost
Delivery	Cost
Mileage	Current Federal Rate (\$0.535/mi.)
Other Travel	Cost
Subconsultants	Cost
Short Term Per Diem	up to \$180 per day
Long Term Per Diem	up to \$120 per day
Field Vehicle	up to \$67 per day
Field Computer/Printer	\$220 per month
Field Cellular Phone	\$130 per month
Prevailing Wage**	loaded with overhead and fee
Miscellaneous	Cost

Fee	
Labor + Overhead	15%
Other Direct Costs	0%

Notes:
 *Overtime rates apply to these classifications and will typically be charged at 1.5 times the hourly rate.
 **Prevailing Wage may apply for Construction Inspection and Surveying Services.
 Labor Costs to be invoiced based on actual hourly rate plus overhead plus fee.
 Other Direct Costs to be invoiced at actual cost plus fee.
 All rates subject to an annual escalation of up to 3.5% per year.

EXHIBIT B

INSURANCE REQUIREMENTS

EXHIBIT B

Insurance Requirements for Professional Services

Consultant 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 by the Consultant, its agents, representatives, or employees.

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 \$1,000,000 per 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 Consultant or the Consultant'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 Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
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.
(Not required if consultant provides written verification it has no employees)
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Consultant's profession, with limits not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Consultant 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 higher limits maintained by the Consultant. 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

Consultants 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 policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant 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 Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance 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 Consultant'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, employee's, agents or volunteers.

Notice of Cancellation

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

Waiver of Subrogation

Consultant hereby grants to County a waiver of any right to subrogation which any insurer of said Consultant may acquire against the County by virtue of the payment of any loss under such insurance. Consultant 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 Consultant to 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 insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

Claims Made Policies

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

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 Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

Verification of Coverage

Consultant 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 Consultant'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

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant 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 Consultant and Consultant's officers, employees, agents, representatives or subcontractors. Consultant's obligation to defend, indemnify and hold the County, 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 Consultant to procure and maintain a policy of insurance.

APPROVED AS TO INSURANCE CONTENT:

Stanislaus County

Chief Executive Office – Risk Management Division

By: _____

Name: _____

Title: _____

Date: _____