County of San Luis Obispo
GENERAL SERVICES AGENCY
Janette D. Pell, Director

Cody VanDorn, Department Administrator

REQUEST FOR RFQ/SOQ PS- #1185
MASTER CONSULTANT LIST

June 7, 2012

The County of San Luis Obispo (County) is currently soliciting Statement of Qualifications (SOQ) for professional services for a Master Consultant List.

Each SOQ shall specify each and every item as set forth in the attached specifications. Any and all exceptions must be clearly stated in the SOQ. Failure to set forth any item in the specifications without taking exception may be grounds for rejection. The County reserves the right to reject any and all SOQs and to waive any irregularity or informality in any SOQ or in the SOQ process, as long as, in the judgment of the County, such action will not negate fair competition and will permit proper comparative evaluation of the SOQs submitted.

This Request for Qualification is posted on the County's Purchasing website at http://www.slocounty.ca.gov/GSA/Purchasing/Current_Formal_Bids_and_Proposals.htm. Any changes, additions, or deletions to this Request for Qualification will be in the form of written addenda issued by the County. Any addenda will be posted on the website. Prospective proposers must check the website for addenda or other relevant new information during the response period. The County is not responsible for the failure of any prospective proposer to receive such addenda. All addenda so issued shall become a part of this Request for Qualification.

If your firm is interested and qualified, please submit five (5) hard copies and one (1) electronic copy (on CD) of your SOQ on July 10, 2012 by 3:00 p.m. to:

County of San Luis Obispo
DEBBIE BELT, GSA Purchasing
1087 Santa Rosa Street
San Luis Obispo, CA 93408

If you have any questions about the SOQ process, please contact me. For technical questions and information contact David Flynn at (805) 781-4463.

All questions pertaining to the content of this Request for Qualification must be made in writing via e-mail to David Flynn at: dflynn@co.slo.ca.us. All questions will receive a response within 5 business days. The question and its response will be posted (anonymously) on the County's Purchasing web site located at the link above. The County reserves the right to determine the appropriateness of comments/questions that will be posted on the website.

DEBBIE BELT
Buyer – GSA Purchasing
dbelt@co.slo.ca.us

2012-2014
Request for Qualifications
Two-Year Professional Services

Master Consultant List

For County of San Luis Obispo
Public Works Department

PUBLIC WORKS

SAN LUIS OBISPO COUNTY

June 7, 2012

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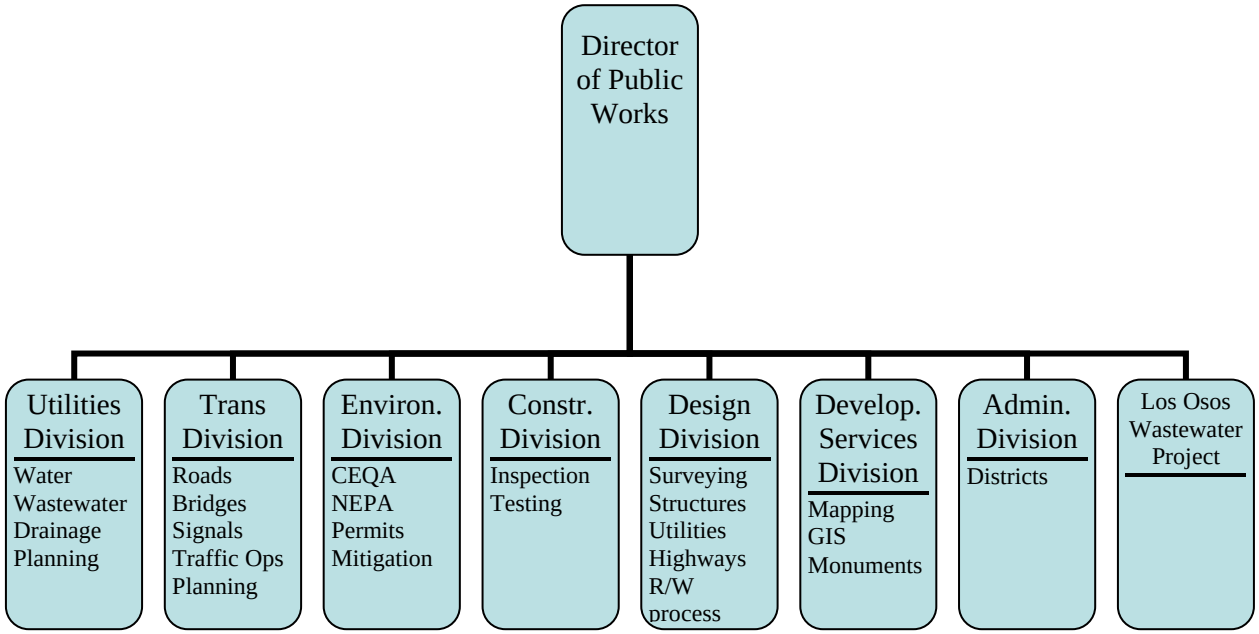
Public Works Department
Needs, Services, and Categories

The Public Works Department is responsible for operating and maintenance of a dozen water/wastewater systems, several flood control facilities, 1300 miles of roadway and 200 bridges. The Department is organized into several divisions to carry out these functions and has approximately 200 employees with an annual operating budget of $ 40 million. To supplement staff capacity, the Department is seeking a pre-qualified list of consultants under specific categories from which the Division Managers can obtain services in the coming years.



Pre-qualified list will allow these Division Managers to seek proposals for specific tasks directly from the short list of firms over the next two years.

All questions related this RFQ should be sent to Dave Flynn, Deputy Director at (805)781-4463 or e-mail at dflynn@co.slo.ca.us.

Summary of Two-Year Services Program

Procurement of Consultant Services

Federal, State and Local laws and regulations require that the Public Works Department contract via an open, publicly advertised and fair process. Establishing this RFQ process is intended to streamline the process while assuring a fair, competitive and open contracting environment. Public Works will solicit once every two years to all interested companies desiring to work with the Department in order to reduce the costs and staff time required from both the firms and the Department.

Two Year Consultant Work Tasks (for Service Contracts up to $ 100,000)

The County Purchasing Agent will publish a Request for Qualifications (RFQ) – Two Year Professional Services Master Consultant List, in local and regional newspapers and trade publications. Only those meeting minimum qualifications and approved through a selection committee will be placed on the pre-qualified list.

The Department intends to issue professional services work to firms on the qualified list with Service Contracts not to exceed $100,000. Selection will be through specific request for proposal (RFP) on subsequent specific projects sent to the firms on the pre-qualified list(s) developed under this RFQ. These RFPs will be sent out via the Public Works Department.

For projects up to $50,000, final award of a specific project will be by the County's Purchasing Agent. For projects over $50,000, the Public Works Department will take the contract award to the Board of Supervisors for approval.

Major Project Selection (Estimated single task order fee over $ 100,000)

Projects with professional services anticipated to cost more than $100,000 will follow the typical RFP process for selection of Consultant through the County of San Luis Obispo; General Services Agency's Purchasing division.

Sole Source Consulting

With exclusive licensing arrangements, patented products or processes, State or Federal prerogatives, one consultant may provide the kind of expertise required for the project. Proposals can be obtained directly from these types of consultants with proper back-up materials to support such a request. Such requests should have attached a summary review of existing resources stating that no such expertise is available within the existing Department resources or the pre-qualified RFQ – Two Year Professional Services Master Consultant List.

Emergency Consulting

The procedures for emergency consulting are the same as for routine consulting contracts with the exception that no notice need be given to solicit proposal for task work. The Department can authorize work to begin absent a formal written contract and negotiations, however, a general price cap must be agreed upon before the work begins and formal written documents shall follow. The Department must report to the County Purchasing Agent on actions by the next day and any work over $ 50,000 must be approved by the Board of Supervisors by a 4/5 th's vote.

Enrollment Period

This enrollment period covers consult use between August 2012 and August 2014.

Submittal Review Phase

All Statements of Qualifications (SOQ) received will be reviewed in the following manner.

First Phase

Compliance checks on content and format are established in this RFQ. If a firm has submitted a SOQ, that does not meet the required format, no further review will be done. The following items will be checked for compliance:

1. Signed Insurance Form
2. Insurance Limits meeting requirements
3. Valid Professional License without any current violations
4. Current Federal Form 330
5. Acceptance of County's indemnification clause

Second Phase

All submittals that comply with the requested format will be reviewed by a selection committee of three individuals for the categories; one of which is outside the Department. The selection committee will determine the minimum cut score for each category of service and establish the qualifying list of firms for each category and subcategory. Only the top three firms for each category will be listed. For subcategories, only the top two firms will be selected.

Third Phase

The final phase, a written scope of services for one specific job will be sent to the firms listed in the category or subcategory and based on common understanding of scope, agreed to costs and availability of firm an individual Service Agreement with the selected firm will be executed. Note: Firms must be committed to accepting the terms of the generic contract as attached to this RFQ. Failure to accept terms during the completion of the Service Agreement may result in the firm being disqualified from the category list (s) and having other firms displace them on the list.

Qualifications Process

Overview

Introduction

Qualifications Based Selection (QBS) as established under the mini-Brooks Act of 1990 (Gov't Code Section 4526-4529) provides for a flexible method of selecting professional services for the Department. Public Works may tailor our project requirements with your firms' qualifications and provide the public with a streamlined and cost effective means to bring on the qualified professional for the task at hand.

By submitting a SOQ, your firm agrees to the review process outlined herein and the decisions resulting from the review process. Making a submission in no way insures your company will work on Department projects. All documents made part of your submission will become the property of San Luis Obispo County. All decisions of the review committee, as approved by the Director, are final.

Basic Scope of Work

The service anticipated in this RFQ are general in nature and not project specific. With the operational diversity of the Department, there are many different regulations and requirements to fulfill. Each company is expected to fully understand and implement various requirements of each discipline with minimal assistance from the Department. The request for project proposals will be specific in nature and on-going during the two-year period after the qualifications process.

Similar Project Types

The selected company must have demonstrated the ability to provide quality professional

services on time and within project budgets, with minimal supervision. Duties would be those consistent with the project types conceived within the Specific Categories. Those tasks might encompass a combination of the following:

- Project Planning
- Cost Control
- Project Scheduling
- Administration
- Project review cycles
- Obtaining permits
- Preparation of Construction Documents and Technical Reports
- Coordination with other Agencies
- Construction Management
- Coordination of sub-consultants

Pre-Qualifications

General

The purpose of pre-qualifying service providers is that it saves time and money; to help in this effort, the County has adopted a Two-Year professional services policy. In order for the County to determine if your company qualifies, you must complete and return your Statement of Qualifications in the format and timeframe desired. **If you have ANY questions, please call the Contract Coordinators.**

Requirements

Please complete and submit the following:

<u>Check if completed Requirement</u>

1. Provide 5 hardcopies and 1 digital PDF file of your Statement of Qualifications to the Contract Coordinators.

2. Identify which Service Group Categories your company will be seeking to apply for. You may apply to as many categories as desired. Your company MUST be the prime consultant in each of the categories.

3. List of current and past projects similar to those anticipated by this Request for Qualifications. Your client list must include project name, owner(s), name and telephone number, your primary contact person, contract amount and whether the

contract was completed on time and within budget. Indicate on this list, for which your company is the prime contract.

4. Identify your Program Manager (prime contact) and other key staff. Include your "internet" or "e-mail" address if applicable. Identify key staff your company plans to use in each service group category. Your key staff could be the same for each service group, as long as they hold valid qualifications in those disciplines. Identify where Manager (prime contact) and key staff offices are located, and the response time to reach our offices from their primary office.

5. Identify the office location of each program manager and key office staff.

6. If you have a Work Quality Assurance plan, provide a copy of your plan with examples of how it works and past performances.

7. Complete the "Statement of Certifying Insurance Coverage" certifying that the required insurance coverage will be obtained by your company and that this coverage is required prior to signing the Service Agreement**. If you fail to provide this statement, you will not make it past the first round.**

8. Indicate that you understand the quality expectation of Public Works. Indicate any cost savings strategies that have worked for you and other public agency clients that could work for Public Works.

Proposals for Individual Projects

The requirements for Proposal Submission will vary depending on the Service Group Category. The individual project Request for Proposals will provide for clearer guidelines on this issue. These focused RFP's will be issued at project time.

Disqualification

General

It is not the goal of the Department to disqualify any firm. However, in order to manage programs, the Department will need to set minimum requirements and it is in successful completion of those requirements that your firm becomes "pre-qualified" for specific tasks.

In the event that your company is disqualified at any stage of this process, you will receive a detailed review of why your Statement of Qualifications was rejected. We do this in an effort to assist in future submittals and would appreciate your firms' feedback as well under this RFQ process.

If your submittal was rejected, this will not prohibit your firm from resubmitting at the next open enrollment. Your firm will automatically receive notice of the next open enrollment period.

Submittal Review Evaluation

If for some reason your Statement of Qualifications is returned to you, we will provide a Submittal Review Report which will help your firm understand why the submittal was returned.

Submittal Format Requirements

General

1. All SOQs, consisting of five (5) hard copies and one (1) electronic copy (on CD or DVD) must be received by mail, recognized carrier, or hand delivered no later than 3:00 p.m. on Tuesday, July 10, 2012. Late SOQs will not be considered and will be returned, unopened.

2. All correspondence should be directed to:

   San Luis Obispo County
   General Services Agency
   1087 Santa Rosa Street
   San Luis Obispo, CA 93408
   ATTENTION: Debbie Belt
   Telephone: (805) 781-5903

3. Costs for preparation and submission of SOQs will be borne by the consultant.

4. It is preferred that all SOQs be submitted on recycled paper, printed on two sides.

5. Selection of qualified consultants will be by an approved County procedure for awarding professional contracts. Selection will be made on the basis of the SOQs as submitted. The Selection Committee will interview the top applicants. The County retains the right to interview applicants as part of the selection process. The proceedings of the Selection Committee are confidential. Members of the Selection Committee are not to be contacted by the consultants.

6. This request does not constitute an offer of employment or to contract for services.

7. The County reserves the option to reject any or all SOQs, wholly or in part, received by reason of this request, and make more than one award, or no award, as the best interests of the County may appear.

8 The County reserves the option to retain all SOQs, whether selected or rejected.

9. SOQs shall remain firm for one hundred twenty (120) days following closing date for SOQ submittal.

10. County reserves the right to award the contract to the firm(s) who presents the SOQ, which in the judgment of the County, best accomplishes the desired results.

11. Any contract awarded pursuant to this Request for Qualifications will incorporate the requirements and specifications contained in this Request for Qualifications. All information submitted will be considered binding, unless otherwise modified and agreed to by the County during subsequent negotiations.

12. The successful proposer is expected to execute a contract similar to the contracts listed as attachments. The sample contracts are for reference to the anticipated terms and conditions governing the County and the successful proposer. The proposer must take exception in their SOQ to any section of the attached contract they do not agree with. Failing to do so will be deemed as acceptance by the proposer to the terms spelled out in the sample contract. The County reserves the right, in its sole discretion, to add, delete, or modify, or negotiate additional terms and conditions to the attached contract. BEFORE BEGINNING ANY WORK OR SUBMITTING A SOQ IT IS ADVISED THAT PROPOSERS READ THE COUNTY INSURANCE AND INDEMNIFICATION REQUIREMENTS IN THE ATTACHED SAMPLE CONTRACTS. The selected proposer will be asked to provide evidence that County insurance requirements have been met. See Sample County Contracts for the insurance requirements.

13. Under the provisions of the California Public Records Act (the "Act"), Government Code section 6252 et seq., all "public records" (as defined in the Act) of a local agency, such as the County, must be available for inspection and copying upon the request of any person. Under the Act, the County may be obligated to provide a copy of any and all responses to this Request for Qualification, if such requests are made after the contract is awarded. One exception to this required disclosure is information which fits within the definition of a confidential trade secret [Government Code section 6254(k)] or contains other technical, financial or other data whose public disclosure could cause injury to the proposer's competitive position. If any proposer believes that information contained in its response to this Request for Qualification should be protected from disclosure, the proposer MUST specifically identify the pages of the response that contains the information by properly marking the applicable pages and inserting the following notice in the front of its response:

> ***NOTICE:*** *The data on pages _ of this response identified by an asterisk (*) contain technical or financial information, which are trade secrets, or information for which disclosure would result in substantial injury to*

the proposer's competitive position. Proposer requests that such data be used only for the evaluation of the response, but understands that the disclosure will be limited to the extent the County considers proper under the law. If an agreement is entered into with the proposer, the County shall have the right to use or disclose the data as provided in the agreement, unless otherwise obligated by law.

The County will not honor any attempt by proposer to designate its entire SOQ as proprietary. If there is any dispute, lawsuit, claim or demand as to whether information within the response to the Request for Qualification is protected from disclosure under the Act, proposer shall indemnify, defend, and hold harmless, the County arising out of such dispute, lawsuit, claim or demand.

14. An electronic copy of your SOQ must be included. This electronic copy should include all documents being submitted combined into one Adobe Acrobat (pdf) file on a CD, using this convention for the file name: FIRM NAME + RFQ NUMBER (e.g., if your firm is Acme Inc. and you are responding to RFQ #1101, your Acrobat (pdf) file would be named: **ACME 101.pdf**)

    Additionally, if you deem any part of your SOQ as proprietary and not to be disclosed under the California Public Records Act as explained in item 13 above, please mark the CD with the phrase "**Proprietary Information Included**". This can be hand written or printed on the CD label.

Required Format

To respond to the Request for Qualifications (RFQ), submit five (5) hard copies and one (1) electronic copy (on CD or DVD) of your SOQ on or before the submission deadline. The SOQ must be signed by a person authorized to bind the proposing firm to the representations, commitments, and statements contained in the SOQ. The SOQ must contain the following information and documents:

- A cover letter summarizing the key points of the statement (2 pages maximum).

- Description of Firm – A description of the firm's organizational structure, the jurisdiction in which the firm is organized, and date of such organization. In addition, provide a brief description of projects of similar nature to those described in this RFQ as well as projects/clients where consultant has performed as an extension of staff.

- Authorized Representative - The name, address, telephone number, facsimile, and e-mail address of the person authorized to represent the firm with respect to all notices, discussions, and other communication relating to this RFQ, and to any negotiations relating to the contract.

- Staffing – An organizational chart identifying: 1) the project manager for the work, each key person who would be assigned to carry out the work; 2) the role each person will play in performing the work; and 3) a description of the experience and qualifications of such manager and key persons. Resumes should be included for all key individuals. Resumes shall include the specific projects and roles of the individuals (with an emphasis on similar work), specialty licenses, certificates or relevant training.

- References – A list of references for the firm and sub consultants, including the names, address, and telephone numbers of recent clients (preferably other public agencies), and a listing of the specific projects, date, and cost of project construction, and key individuals that participated in them. Include the dollar value related to the participation. Identify how much experience the firm and sub consultant has had with public agencies.

- Note the Subcategories for consideration - Firm shall list the subcategories they wish to be considered for.

- Experience in Category – A clear concise statement of the firm's understanding of the nature and the extent of the services required and a specific outline to demonstrate how personnel would be organized to handle these services. Demonstration that staff is available to complete the work within four (4) to six (6) months after the contract is executed.

RESERVATIONS OR RIGHTS BY THE COUNTY

The County reserves the right to postpone selection for its own convenience, to withdraw this RFQ at any time, to reject any SOQ without indicating a reason for such rejection, or to negotiate with any or none of the respondents. As a function of the negotiation process, the County reserves the right to remedy technical errors, modify the published scope of services, and approve or disapprove the use of all sub consultants. In addition, this RFQ does not commit the County to negotiate a contract. The issuance of this RFQ does not constitute an agreement by the County that any subsequent selection processes will occur, or that any contract will be entered into by the County. Statements and other materials submitted will not be returned unless portions of submittals are designated as proprietary at the time of submittal and requested to be returned.

The County may also elect not to utilize the Master Consultant List created through this RFQ process for projects costing under $100,000 and pursue the work be done under an open RFP process.

Selection of Consultant Categories

Overview

A. Selection of Consultants for the Pool

As there is no specific project upon which the SOQ should be based, the consultant submittal will be in the form of statement of qualifications. Although the general nature of the construction projects indicated the expertise which is needed, each firm shall choose a team that demonstrates both professional capabilities and prior experience to provide the services listed in this RFQ, and shall prepare a written statement that complies with the requirements of the terms and conditions of this RFQ.

The selection committee will evaluate SOQs based on the following evaluation sheet:

RFQ EVALUATION SHEET		
Criteria	**Maximum Points**	**Rating**
Understanding of the work to be done	20	
Experience with similar kinds of work and demonstrated technical ability	20	
Quality and availability of staff for work to be done	15	
Capability of developing innovative and cost effective techniques	10	
Familiarity with state and federal procedures (i.e. Funding Requirements, Delivery procedures, Design standards)	20	
Availability for bi-weekly (or as needed) in person meetings with County staff on- or off-site	15	
Total	**100**	

The committee establishes a shortlist of consultants who are considered to be best qualified to perform the contract work. Consultants will be notified of the results of the review.

B. Consultant Interviews

The selection committee may interview the top three or more highest ranked consultants from the SOQ review ranking and develop a final ranking of the highest

ranked consultant by category. Consultants will be notified of the results of the review.

C. Final Selection

Final selection of the consultant for any project will be made by the Director of Public Works, based on the selection committee's evaluation of their proposal, the results of the possible oral interview, and terms of contract language negotiated with the County.

The intent is to have three firms established under each category and two firms established under each subcategory from which the Department will seek specific project proposals over the term of the Master Consultant list developed under this RFQ.

Services Agreement

Overview

As projects come on-line, and require use of external resources, a Two-Year consultant will be selected and requested to submit a focused project proposal. At this point, the project specific service agreement will be declared and executed.

Agreement Structure

General

The form of the Service Agreement echoes many service contracts, as shown listed as attachments. The basic provisions cover who is responsible for the various work products, compensation arrangement for authorizing extra work not included in original scope, terms of the agreement, conflicts of interest, ownership of data, record keeping and audits, insurance, etc.

Unique Provisions

We have built-in several provisions in response to our internal review, public review and comments on our practices by others, which you will be required to agree with in order to qualify. They are as follows:

Key Staff Changes

You are required to provide us who will be your representative during the term of the agreement and is vested with the ability to make changes in the agreement and assist the Contract Coordinator, as needed.

Insurance and Indemnification

A. The selected consultant will be required to provide commercial general liability insurance coverage in the amount of $1,000,000 and $1,000,000 of Professional Liability Insurance. This amount of insurance coverage shall be reflected in your estimated professional fees.

B. The consultant shall provide within five (5) days after the Notice of Award is issued a certificate of liability insurance naming the County of San Luis Obispo and its employees and officers as additionally named insured. This shall be maintained in full force and effect for the duration of the contract and must be in an amount and format satisfactory to the County.

C. The selected consultant will be required to defend, indemnify and save harmless the County, its employees, officers, agents, form any and all claims, demands, damages, costs, expenses, judgments or liability of any nature whatsoever which may result from this contract except for claims, demands, damages, costs, expenses or judgments resulting solely from the negligence or willful misconduct of the County.

D. Attachment 1 is a sample of a typical County contract agreement for engineering consulting services.

Service Group Categories (SGC)

Department Needs

The Service Group Categories represent on-going Department needs for highly specialized professional services in various fields in the development of capital projects, development of master planning documents, and in developing operational documents.

Overview

The Department through its operating divisions, produces a wide variety of work, manages a wide variety of programs, projects and planning efforts. Work requests are derived from many sources: the public, other Departments, and other agencies and jurisdictions.

The following Service Group Categories (SGC) should serve as a general guide for the services sought by the Department. A firm can reply to as many SGC's as your company can qualify to provide. Each SGC has a Point of Contact (POC) that you may contact for questions pertaining to the SGC you are planning to submit. The POC's are listed below.

Service Group Category		Point of Contact
SGC1:	Roadway Engineering	Frank Honeycutt 805-781-5269
	Subcategory 1.1 – Pavement Engineering	
SGC2:	Structures Engineering	Frank Honeycutt 805-781-5269
SGC3:	Transportation Planning and Traffic Engineering	Frank Honeycutt 805-781-5269
SGC4:	Water Resource Engineering	Dean Benedix 805-781-5267
SGC5:	Flood Control Engineering	Dean Benedix 805-781-5267
SGC6:	Right of Way Services	Phil Acosta 805-781-5290
	Subcategory 6.1 Right of Way Appraisal Services	
	Subcategory 6.2 Right of way Acquisition Services	
SGC7:	(For Future Use)	

SGC8:	Hazardous Material Assessments	Mark Hutchinson 805-781-5458
SGC9a:	Environmental Services	Mark Hutchinson 805-781-5458
	Subcategory 9.1 Environmental Document Prep Subcategory 9.2 Environmental Permitting Subcategory 9.3 Biological Services Subcategory 9.4 Archeological Services	
SGC9b:	Environmental Services Minor (up to 25K)	Mark Hutchinson 805-781-5458
SGC10:	Geotechnical Engineering	Dave Flynn 805-781-4463
SGC 11:	Media Services	Dave Flynn 805-781-4463

Two Year Service Categories

SGC1: Roadway Engineering

General

1. Selected firms will provide design expertise and roadway construction document preparation work to fulfill requirements outlined in each task order.
2. Firm will abide and comply with all funding source requirements relative to audit and payroll requirements.

Minutes and Reporting

1. Selected firms will be required to take, produce and keep minutes of all project assigned meetings, including phone conversations, to outline actions required, deadlines, and information needed to advance the project work
2. Selected firm will be required to furnish copies of these meeting minutes to the Contract Oversight personnel within one week of the event.
3. Selected firm will produce a monthly project status report to the Contract Oversight personnel which outlines the following information:
    - Project Description and Charge Code information
    - Update list of deliverable milestones and schedule to deliver
    - Update of expended funds vs. remaining budget for task order
    - Percentage of work complete
    - Action Items required/Information Needed to complete tasks

Typical Tasks

Road engineering tasks will cover a wide range of activities including but not limited to the following:

- Preliminary Road Alignments
- Environmental Constraint identification and review
- Drainage Analysis
- Utility Identification
- Road Repair Assessments and Recommendations
- Final alignments and Design
- Cost Estimating
- Project Budgeting and Scheduling
- Ability to Process FHWA/Caltrans Local Assistance requirements

Subcategory 1.1 – Pavement Engineering

Your company needs to demonstrate current knowledge and experience in performing roadway pavement structural section evaluation, subsurface investigation techniques, design recommendations for proper treatment of in-place pavements and structural section recommendations. The latter would include ability to analyze, including coring and deflection testing of existing pavements, and recommend work involving asphalt rehabilitation and reconstruction, surface treatments and practices for updating standards and specifications. Consultant is to submit written reports and recommendations to the Department.

The Consultant should also demonstrate ability to administer, trouble shoot and report on Pavement Management System utilizing APWA's MicroPaver or Street Saver software and indicate experience in overseeing and complete such projects.

SGC2: Structures Engineering

General

1. Selected firms will provide design expertise and roadway construction document preparation work to fulfill requirements outlined in each task order.
2. Firm will abide and comply with all funding source requirements relative to audit and payroll requirements.

Minutes and Reporting

1. Selected firms will be required to take, produce and keep minutes of all project assigned meetings, including phone conversations, to outline actions required, deadlines, and information needed to advance the project work
2. Selected firm will be required to furnish copies of these meeting minutes to the Contract Oversight personnel within one week of the event.
3. Selected firm will produce a monthly project status report to the Contract Oversight personnel which outlines the following information:
    - Project Description and Charge Code information
    - Update list of deliverable milestones and schedule to deliver
    - Update of expended funds vs. remaining budget for task order
    - Percentage of work complete
    - Action Items required/Information Needed to complete tasks

Typical Tasks

Structure Engineering tasks will cover a wide range of activities including but not limited to the following:

- Preliminary General Plan designs and cost assessment
- Inspection of existing structures
- Load Capacity Analysis of existing structures
- Retaining Wall selection and Design
- Design of Box Culverts
- Seismic Retrofit Assessments
- Final Construction Documents
- Field Testing of construction work efforts
- Project Budgeting and Scheduling
- Ability to Process FHWA/Caltrans Local Assistance requirements

SGC3: Transportation Planning and Traffic Engineering

General

1. Selected firm should have demonstrated expertise using the Highway Capacity Manual in developing operational studies and recommendations
2. Selected firm shall have experience using T Model and transCad traffic modeling software
3. Selected firm should have experience in having adopted an AB1600 nexus study fee program
4. Demonstrate ability to work with multiple agencies and jurisdictions in assessing transportation impacts and working with stakeholders in developing options to address defined needs. Specifically, work with SLOCOG and Caltrans.

Transportation Planning

1. Development of sub-regional traffic model for various locations in the County
2. Corridor Studies
3. Community Transportation Plans
4. Bike/Ped studies and Reports
5. Caltrans PEER and PSR/PR studies

Traffic Engineering

1. Traffic Data Collection Studies
2. Traffic Simulation Studies
3. Traffic Signal Planning and Design
4. Traffic Control Plan Review and Development
5. Roadway Alignment Analysis, Planning and Design
6. Intersection Analysis, planning and design
7. Interchange analysis, planning and design
8. Signage and Delineation Plans

SGC4: Water Resource Engineering

General

The selected firms may be requested to provide a variety of Water Resource Support efforts which include but would not be limited to the following:

1. Selected firm may prepare hydrologic reports/investigations and identify issues.
2. Collect and analyze Groundwater resource data
3. Develop hydrological models
4. Review Water Supply options
5. Provide technical support as needed by the Department
6. Provide technical assistant for water quality, water conservation and storm water runoff programs.

SGC5: Flood Control Engineering

General

The selected firms may be requested to provide a variety of Drainage and Flood Control assessment as needed by the Department. Areas of potential needs include:

Watershed Studies

1. Generally application of floodplain analysis using HEC-1 and HEC-2 programs.
2. Collection of field data for analysis
3. Analysis of existing channel and improvement capacities
4. Determination of system deficiencies
5. Recommendations for system improvements

Floodway Studies

1. Evaluation of Flood Insurance Rate Map, Studies and Floodways
2. Preparation of Studies in potential amendment of said flood maps
3. Evaluation of Floodplain encroachments

Flood Control Engineering

1. Inspection and assessment of existing system
2. Cost-Benefit analysis of options
3. Review of development plans
4. Assessments of project impacts and permit requirements
5. Development of Construction Documents

6. Cost Estimates
7. System Maintenance Assessments
8. Development of Flood Control Standards

SGC6: Right of Way Services

General

An overview of requirements and tasks included in the scope of work for Right of Way Services for the Department is provided below and in the attached Master Service Agreement for Right of Way Appraisal Services 'Template' and in the attached Master Service Agreement for Right of Way Acquisition Services 'Template'. It is impossible to list all the potential activities that may be encountered during the term of the RFQ list. For this reason, your Statement of Qualifications should indicate the general nature of your firm's qualifications to provide such services and a detailed listing of the firm's staff and breadth of experience to support an understanding of the firm's capacity and abilities.

Subcategory 6.1 Right of Way Appraisal Services

The County, from time to time, seeks the assistance of a qualified and duly licensed appraiser to provide statutory appraisals and estimates of just compensation in support of the acquisition of real property interests required for various Public Works Projects, within established Project timelines, and under the oversight and general direction of the County's Right of Way Agent.

The Appraiser must show familiarity and experience with partial acquisition eminent domain appraisals under "Uniform Act" guidelines and pursuant to Code of Civil Procedure Chapter 9. The Appraiser must also demonstrate experience with providing expert witness testimony in support of the Appraiser's findings.

1. Eminent Domain Appraisal Expertise
Describe your firm's experience with specific valuations under eminent domain statutes and procedures including any "before and after" measure(s) of severance damages and benefits. Indicate any specific valuations that your company has prepared for similar projects within the County of San Luis Obispo. This summary should include a brief description of the projects; the type of valuation prepared, and a summary of the methodology used to measure severance damages and benefits.

Subcategory 6.2 Right of Way Acquisition Services

The County, from time to time, seeks the assistance of a qualified and duly licensed Acquisition Agent to acquire real property interests required for various Public Works Projects, within established Project timelines, and under the oversight and general direction of the County's Right of Way Agent. Tasks include the completion and development of pertinent purchase contracts, conveyance documents, and statutory offer(s) in support of negotiations through completion of escrow or up to a 'Notice of Intent to Seek Resolution of Necessity' and an action in eminent domain.

2. Eminent Domain Acquisition Expertise

Describe your firm's experience with specific real property acquisition negotiations under eminent domain statutes and procedures including acquisition of fee title, road and utility easements, and temporary construction easements. Also describe your firm's experience with Preliminary Title reviews and clearance of conflicting encumbrances, the development of Right of Way Contracts, and the development of various related conveyance documents. Indicate any specific acquisition experience that your company may have for public projects within the County of San Luis Obispo. This summary should include a brief description of the project(s); the type of acquisition involvement(s), and a summary of the parcel tracking methodology used to manage your work.

Types of assessment/planning efforts could involve any if the following tasks:

1. Above Ground Investigations
2. Subsurface Investigations
3. Site Assessment Plans
4. Site Remediation and Reporting Activities
5. Feasibility Study Reports/Technical Work Plans
6. Remediation Action Plans
7. Agency Review Processing, Permitting and Notifications
8. Meeting Attendance and Meeting Minutes/Reports
9. Project Estimating, Budgeting, Contract Administration
10. Project Scheduling
11. Site Specific Health and Safety Plans

Typical event encounters would be underground tanks, Naturally Occurring Asbestos formations, Aerially deposited lead, Mercury Mine Tailings, spills in the right of way discovered due to excavations or similar situations.

Environmental Remediation

At times the projects will require environmental remediation prior to when an improvement project starts. The selected firms will need to demonstrate expertise in the following areas:

1. Groundwater investigations
2. Remedial Design, Feasibility Studies and Technology Evaluation
3. Containment Design
4. Field QA/QC
5. Permit Application Processing
6. Compliance Audits
7. Site Closer evaluations and Reporting

SGC 7: (For Future Use)

SGC8: Hazardous Material Assessments

General

The timely, accurate and effective identification of materials known to be of a hazardous nature is important to ascertain during the early stages of any project. Professional services to provide this kind of expertise are needed by the County.

The selected firms will need to demonstrate qualifications in the area of hazardous material assessment, planning and design as it relates to the identification and removal of hazardous material. Upon completion of a specific assessment document, provides recommendation on means to avoid materials, provide in-place remediation or removal of hazardous materials for the site.

It is important for the selected firm to demonstrate an understanding of all relevant laws, codes, guidelines and requirements of governing agencies having jurisdiction over the hazardous materials. Other agencies within the County have jurisdiction over activities related to the work around and with these hazardous materials.

It will be the responsibility of the selected firm to find, obtain, understand and implement the requirements of these agencies.

Environmental Site Assessment

As part of any engineering improvement project, hazardous material may be encountered. It is impossible at the outset of the project to determine the complexity, degree of involvement, type of work or effort required to effectively plan for the remediation of site materials.

The scope and nature of this type of work will be defined at the time projects are assigned, with sufficient detail for the selected firms to adequately respond.

SGC9a: Environmental Services

General

A qualitative description of tasks included in the scope of work for environmental review and technical support services for the Department is provided below. It is impossible to list all the potential environmental review and evaluation activities that may be encountered during the term of the RFQ list. For this reason, Statement of Qualifications should indicate a general nature of the firm's qualifications to provide such services and a detailed listing of the firm's staff for a detailed understanding of capacity of the firm's abilities. This category pertains to consulting contracts that fall above $25,000 but below $100,001.

Subcategory 9.1 Environmental Document Preparation

Typical tasks for their subcategory would include preparation of environmental documents, preparation of technical studies for the environmental issue areas, and official response top comments of the environmental documents.

1. CEQA Expertise

Describe your firm's experience with specific applications of CEQA. Indicate documents your company has prepared for similar projects within the County of San Luis Obispo. This summary should include a brief description of the projects; the type of CEQA document prepared; and success in adoption of these documents.

2. NEPA Expertise

Describe your firm's experience with specific applications of NEPA. Indicate documents your company has prepared for similar projects within the County of San Luis Obispo. This summary should include a brief description of the projects; the type of NEPA document prepared; and success in adoption of these documents.

Types of NEPA and CEQA documents the firm would be expected to prepare are:

Initial Study/Environmental Assessments
Negative Declarations/FONSI
EIR/EIS

3. Issue Area Analysis

Technical support provided by the selected firms includes, but not limited to, the following:

a. Geology

b. Hydrology
c. Biology
d. Historical/Cultural Resources
e. Air Quality
f. Traffic
g. Agriculture/Land Use
h. Aesthetics
i. Noise
j. Risk Assessment

If your firm holds other areas of expertise, please indicate those as well.

Subcategory 9.2 Environmental Permitting

If projects require permitting from regulatory agencies, the selected firms may be asked to assist Department in the preparation of application packages and acquisition of permits from the agencies listed below. Please provide information on your firms experience working with these agencies:

California Department of Fish and Game
Regional Water Quality Control Board
California Coastal Commission
US Fish and Wildlife Service
Army Corps of Engineers
Air Pollution Control Board
NOAA Fisheries

Subcategory 9.3 Biological Services

The selected firms will need to demonstrate their expertise in preparing studies, assessments, monitoring and reports from the following list of typical tasks associated with this subcategory:

a. Field surveys for biological resources
b. Biological assessments
c. Mitigation plan development and implementation
d. Field project monitoring
e. Mitigation Monitoring
f. Wetlands delineations using Army Corps of Engineers and USFWS methodologies.
g. Endangered and threatened species surveys, mitigation plan development and monitoring, and Section 7 and 10 consultations.

Subcategory 9.4 Cultural Resources

The selected firms will need to demonstrate their expertise in preparing studies, conducting field surveys, assessments, research and reports from the following list of typical tasks associated with this subcategory.

a. Phase I field review and site assessment
b. Phase II field investigations
c. Phase III field surveys and reporting
d. Historical research
e. Mitigation plans and implementation

SGC9b: Environmental Services Minor

General

A qualitative description of tasks included in the scope of work for environmental review and technical support services for the Department is provided above in category 9a above. It is impossible to list all the potential environmental review and evaluation activities that may be encountered during the term of the RFQ list. For this reason, Statement of Qualifications should indicate a general nature of the firm's qualifications to provide such services but a detailed listing of the firm's staff for a detailed understanding of capacity of the firm's abilities.

This category pertains to consulting contracts that fall below $25,001. The difference between categories 9a and 9b is the process for subsequent selection of consultants using the pre-qualified lists. For those projects with costs between $25,000 and $100,000, an RFP will be developed and circulated to those consultants on the-qualified list followed by the development and approval of a standard professional services agreement.

Consultants selected for list 9b (Environmental Services Minor) will be placed under an on-call contract. When needed, a pre-qualified consultant will be contacted by Department's assigned Environmental Resource Specialist and asked to submit a cost and scope leading to a Task Order. Task Orders are reviewed and approved by the Environmental Programs Manager.

SGC10: Geotechnical Engineering

General

The proper design of civil engineering projects requires the evaluation of subsurface conditions, possible geologic hazards, and gives recommendations for foundation designs and slope stability/remediation requirements at proposed project sites. When projects require earthen or rock fill materials, a determination must be made as to the suitability of materials to receive fill materials and an evolution of possible source material for the construction. On projects where excavation of existing materials are to be made, an evaluation of the stability of the remaining materials and the soil strength properties must be made, and if necessary, the mitigation of instabilities will need to be evaluated.

The evaluation of geotechnical properties shall typically involve the review of existing information, field exploration, recommendations for laboratory analytical recommendation and preparation of geotechnical reports. These items will be utilized for the design and construction of roadways, foundations and other structures.

Soils Investigations

The goal of a subsurface investigation is to provide the project engineer with an evaluation of the subsurface conditions to be expected at the project site during construction. This process is integral to the successful design of a slope remediation or structure design that will be safe during it service life, taking into account the daily loading as well as loads and wear exerted on the slope or structure. Potential geologic conditions should be discovered during this phase which may warrant further investigation during the remaining design process.

The selected firms shall be ready to provide any of the following services or complete tasks as requested by the Department. This list includes, but is not limited to, the following:

Subsurface Exploration and Investigation

a. Reconnaissance Investigation
b. Soil Borings and Sampling
c. Geophysical Explorations
d. Groundwater Investigations
e. Rock coring and classifications
f. Core Penetration

Soil Classification and Laboratory Testing

a. Classifications of soil and rock by the Unified Soil Classification System
b. Evaluation of Soil Properties, including Shear Strength, angle of internal friction, expansion potential, compressibility, and Corrosion Potential.
c. Soil permeability studies

Foundation and Slope Design Reports

A foundation or roadside slope must support the weight of the structure/earth mass and transmit the applied loads to the underlying soil or rock. The selected firms should demonstrate their expertise in dealing with the processing of the site investigation, determination of soil parameters, and their ability to develop applicable recommendation for foundation type, soil treatment, or slope stability methods to address the project at hand.

The Department is involved in the design and construction of a multitude of structures which require these foundation/slope stability reports. We seek a collection of consultants that will be able to supply experience is a wide assortment of design applications. As the tasks required for these assorted projects could easily consume a volume of it own, the following list of tasks should be considered to be a general guide. Highlighting the areas that you have the greatest experience and knowledge about as a firm and with current staff will be helpful in the evaluation.

Typical Tasks:

a. Project planning
b. Geological mapping
c. Geotechnical and Geophysical exploration
d. Classification and Description of physical rock and soil properties
e. Rock mechanics
f. Foundation type selection
g. Settlement Estimation
h. Embedment length and size of foundation elements
i. Lateral load capacity
j. Earthwork requirements
k. Slope stability analysis
l. Design criteria for static and dynamic loading
m. Seismic Design and earthquake analysis
n. Geologic hazard evaluation
o. Soil improvement
p. Groundwater control
q. Surface water and subsurface drainage control
r. Preparation of Material Reports per Caltrans manual of testing
s. Preparation of Foundation/Slope stability Reports prepared to County, State, and Federal guidelines and signed and stamped by a licensed Geotechnical Engineer in the State of California.

SGC 11: Media Services

To provide services to cover a broad spectrum of media services as outlined below. The services and projects anticipated by the Department are not limited to those outlined below, nor is it possible to list them all here at this time. All projects will be assigned based on the selected firm's timely ability to provide the following tasks:

Media Planning

a. Community Workshops
b. Media Planning
c. Graphic Arts and Photography
d. Public Information Campaign Development
e. Mass Mailing
f. Printing Services
g. Ad Campaigns
h. Promotional Materials
i. Targeted staff assistance

Media Production

a. Newspaper Media
b. Radio Media
c. Television Media
d. Video Media
e. Multi-media Presentations

Attachments (Sample Contracts)

1. Non-Federal Professional Services Agreement
2. Non-Federal Environmental Services Agreement
3. Master Service Agreement for Right of Way Appraisal Services
4. Master Service Agreement for Right of Way Acquisition Services
5. Appraisal Checklist

AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
(NON-FEDERAL FUNDING)

This Agreement is entered into by and between the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California, herein called "COUNTY," and _____, a corporation whose address is _____, herein called "ENGINEER." This Agreement shall be effective as of the date it is fully executed by the parties.

The COUNTY department responsible for administering this Agreement is the Department of Public Works ("Public Works"), and all written communications hereunder with the COUNTY shall be addressed to the Director of Public Works ("Director").

WHEREAS, the COUNTY has need for special services and advice with respect to the work described herein for the _____Project (hereafter, the "Project"); and

WHEREAS, the ENGINEER warrants that it is specially trained, experienced, expert, and competent to perform such special services;

NOW, THEREFORE, the parties agree with the above recitals, and hereby further agree as follows:

ARTICLE 1. **SCOPE OF WORK.** The ENGINEER shall, at its own cost and expense, provide all the services, equipment, and materials necessary to complete the work described in the ENGINEER's Scope of Work (hereafter, collectively "Work") attached hereto as Exhibit A. ENGINEER warrants and represents that said Work encompasses all professional engineering services necessary for the ENGINEER's preparation of final design plans and specifications for the public bidding of the construction of the Project. All Work shall be performed to the highest professional standard.

ARTICLE 2. <u>TIME FOR COMPLETION OF WORK.</u> No Work shall be commenced prior to the ENGINEER's receipt of the COUNTY's Notice to Proceed. All Work shall be completed no later than _____, ____, 20____, provided, however, that extensions of time may be granted in writing by the Director of Public Works of San Luis Obispo County, which said extensions of time, if any, shall be granted only for reasons attributable to inclement weather, acts of God, or for other cause determined in the sole discretion of the Director of Public Works of San Luis Obispo County to be good and sufficient cause for such extensions.

ARTICLE 3. <u>PAYMENT FOR SERVICES.</u>

A. **<u>COMPENSATION.</u>** The COUNTY shall pay to the ENGINEER as compensation in full for all Work required by this Agreement a sum not to exceed the $_____ The ENGINEER's compensation shall be based on actual services performed and costs incurred at the rates set forth for each task in the ENGINEER's Cost Proposal attached hereto as Exhibit B. Progress payments will be made as set forth below based on compensable services provided and allowable costs incurred pursuant to this Agreement.

B. **<u>REPORTS.</u>** The ENGINEER shall submit to the COUNTY, on a monthly basis, a detailed statement of all services performed and all Work accomplished under this Agreement since the ENGINEER's last monthly statement, including the number of hours of Work performed and the personnel involved. For the purpose of timely processing of invoices, the ENGINEER's invoices are not regarded as received until the monthly report is submitted. Any anticipated problems in performing any future Work shall be noted in the monthly reports. The ENGINEER shall also promptly notify the County of any perceived need for a change in the scope of work , and an explanation as to why the ENGINEER did not include said work in the attached Scope of Work.

C. **<u>INVOICES.</u>** Billing invoices shall be based upon the ENGINEER's Cost Proposal, attached hereto as Exhibit B. Invoices shall detail the Work performed on each task and each project as applicable. Invoices shall follow a format based upon the Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain

the final cost and all credits due the COUNTY including any equipment purchased under the provisions of Article 24 Equipment Purchase of this Agreement.

D. **RETAINAGE FROM PROGRESS PAYMENTS** The COUNTY shall withhold retainage from each progress payment due ENGINEER in the sum of 10 percent until the final design plans and specifications for the construction of the Project are accepted by the County. Once said plans and specifications are accepted by the County, all retainage shall be released within 60 days. The County reserves the right to withhold from any payment to ENGINEER, including but not limited to any release of retainage, any sums attributable to any costs, damages or claims incurred or experienced by the County that arise from any breach of this Agreement by ENGINEER. .

E. **ENGINEER'S ASSIGNED PERSONNEL.** All Work performed under this Agreement shall be performed by the ENGINEER's personnel indentified in the organizational chart, attached hereto as Exhibit C. Any changes to the any personnel designated on this organizational chart must be approved in writing by the COUNTY's Project Manager.

ARTICLE 4. ACCOUNTING RECORDS.

A. The ENGINEER shall maintain accounting records in accordance with generally accepted accounting principles. The ENGINEER shall obtain the services of a qualified bookkeeper or accountant to ensure that accounting records meet this requirement. The ENGINEER shall maintain acceptable books of accounts which include, but are not limited to, a general ledger, cash receipts journal, cash disbursements journal, general journal, and payroll journal.

B. The ENGINEER shall record costs in a cost accounting system which clearly identifies the source of all costs. Agreement costs shall not be co-mingled with other project costs, but shall be directly traceable to contract billings to the COUNTY. The use of worksheets to produce billings shall be kept to a minimum. If worksheets are used to produce billings, all entries should be documented and clearly traceable to the ENGINEER's cost accounting records.

C. All accounting records and supporting documentation shall be retained for a minimum of five (5) years or until any audit findings are resolved, whichever is later. The ENGINEER shall safeguard the accounting records and supporting documentation.

D. The ENGINEER shall make accounting records and supporting documentation available on demand to the COUNTY and its designated auditor for inspection and audit. Disallowed costs shall be repaid to the COUNTY. The COUNTY may require having the ENGINEER's accounting records audited, at the ENGINEER's expense, by an accountant licensed by the State of California. The audit shall be presented to the County Auditor-Controller within thirty (30) calendar days after completion of the audit.

ARTICLE 5. NON-ASSIGNMENT OF AGREEMENT. Inasmuch as this Agreement is intended to secure the specialized services of the ENGINEER, the ENGINEER may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of the COUNTY and any such assignment, transfer, delegation, or sublease without the County's prior written consent shall be considered null and void.

ARTICLE 6. INSURANCE. The ENGINEER, at its sole cost and expense, shall purchase and maintain the insurance policies set forth below on all of its operations under this Agreement. Such policies shall be maintained for the full term of this Agreement and the related warranty period (if applicable) and shall provide products/completed operations coverage for four (4) years following completion of the ENGINEER's Work under this Agreement and acceptance by the County. Any failure to comply with reporting provisions(s) of the policies referred to above shall not affect coverage provided to the County, its officers, employees, volunteers, and agents. For purposes of the insurance policies required hereunder, the term "County" shall include officers, employees, volunteers, and agents of the County of San Luis Obispo, California, individually or collectively.

A. **MINIMUM SCOPE AND LIMITS OF REQUIRED INSURANCE POLICIES.** The following policies shall be maintained with insurers authorized to do business in the State of California and shall be issued under forms of policies satisfactory to the County:

1. **COMMERCIAL GENERAL LIABILITY INSURANCE POLICY ("CGL").** Policy shall include coverage at least as broad as set forth in Insurance Services Office (herein "ISO") Commercial General Liability coverage. (Occurrence Form CG0001) with policy limits not less than the following:

$1,000,000 each occurrence (combined single limit);

$1,000,000 for personal injury liability;

$1,000,000 aggregate for products-completed operations; and

$1,000,000 general aggregate.

The general aggregate limits shall apply separately to the ENGINEER's Work under this Agreement.

2. **BUSINESS AUTOMOBILE LIABILITY POLICY ("BAL").** Policy shall include coverage at least as broad as set forth in Insurance Services Office Business Automobile Liability Coverage, Code 1 "Any Auto" (Form CA 0001). This policy shall include a minimum combined single limit of not less than One-million ($1,000,000) dollars for each occurrence, for bodily injury and/or property damage. Such policy shall be applicable to vehicles used in pursuit of any of the activities associated with this Agreement. The ENGINEER shall not provide a Comprehensive Automobile Liability policy which specifically lists scheduled vehicles without the express written consent of County.

3. **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY ("WC / EL").** This policy shall include at least the following coverages and policy limits:

a. Workers' Compensation insurance as required by the laws of the State of California; and

b. Employer's Liability Insurance Coverage B with coverage amount not less than one-million ($1,000,000) dollars each accident / Bodily Injury (herein "BI"); one-million ($1,000,000) dollars policy limit BI by disease; and, one-million ($1,000,000) dollars each employee BI by disease.

4. **PROFESSIONAL LIABILITY INSURANCE POLICY ("PL").** This policy shall cover damages, liabilities, and costs incurred as a result of the ENGINEER's professional errors and omissions or malpractice. This policy shall include a coverage limit of at least One-Million Dollars ($1,000,000) per claim, including the annual aggregate for all claims (such coverage shall apply during the performance of the services under this Agreement and for two (2) years thereafter with respect to incidents which occur during the performance of this Agreement). The ENGINEER

shall notify the County if any annual aggregate is eroded by more than seventy-five percent (75%) in any given year.

B. **DEDUCTIBLES AND SELF-INSURANCE RETENTIONS.** Any deductibles and/or self-insured retentions which apply to any of the insurance policies referred to above shall be declared in writing by the ENGINEER and approved by the County before Work is begun pursuant to this Agreement. At the option of the County, the ENGINEER shall either reduce or eliminate such deductibles or self-insured retentions as respect the County, its officers, employees, volunteers, and agents, or shall provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and/or defense expenses.

C. **ENDORSEMENTS.** All of the following clauses and endorsements, or similar provisions, are required to be made a part of insurance policies indicated in parentheses below:

1. A "Cross Liability", "Severability of Interest" or "Separation of Insureds" clause (CGL & BAL);
2. The County of San Luis Obispo, its officers, employees, volunteers, and agents are hereby added as additional insureds with respect to all liabilities arising out of the ENGINEER's performance of Work under this Agreement (CGL & BAL);
3. If the insurance policy covers an "accident" basis, it must be changed to "occurrence" (CGL & BAL);
4. This policy shall be considered primary insurance with respect to any other valid and collectible insurance County may possess, including any self-insured retention County may have, and any other insurance County does possess shall be considered excess insurance only and shall not be called upon to contribute to this insurance (CGL, BAL, & PL);
5. No cancellation or non-renewal of this policy, or reduction of coverage afforded under the policy, shall be effective until written notice has been given at least thirty (30) calendar days prior to the effective date of such reduction or cancellation to County at the address set forth below (All Policies);
6. The ENGINEER and its insurers shall agree to waive all rights of subrogation against the County, its officers, employees, volunteers, and agents for any loss arising under this Agreement (CGL); and

7. Deductibles and self-insured retentions must be declared (All Policies).

D. **ABSENCE OF INSURANCE COVERAGE.** The County may direct the ENGINEER to immediately cease all activities with respect to this Agreement if it determines that the ENGINEER fails to carry, in full force and effect, all insurance policies with coverages at or above the limits specified in this Agreement. Any delays or expense caused due to stopping of Work and change of insurance shall be considered the ENGINEER's delay and expense. At the County's discretion, under conditions of lapse, the County may purchase appropriate insurance and charge all costs related to such policy to the ENGINEER.

E. **PROOF OF INSURANCE COVERAGE AND COVERAGE VERIFICATION.** Prior to commencement of Work under this Agreement, and annually thereafter for the term of this Agreement, the ENGINEER, or each of the ENGINEER's insurance brokers or companies, shall provide the County a current copy of a Certificate of Insurance, on an Accord or similar form, which includes complete policy coverage verification, as evidence of the stipulated coverages. All of the insurance companies providing insurance for the ENGINEER shall have, and provide evidence of, a Best Rating Service rate of A VI or above. The Certificate of Insurance and coverage verification and all other notices related to cancellation or non-renewal shall be mailed to:

[Insert Project Mgr.} , Public Works Department
Room 207, County Government Center
San Luis Obispo CA 93408

ARTICLE 7. INDEMNIFICATION.

A. The ENGINEER shall defend, indemnify and hold harmless the COUNTY, its officers, agents, and employees from all claims, demands, damages, costs, expenses, judgments, attorney fees, liabilities, or other losses (hereafter, collectively "claims") that may be asserted by any person or entity, and that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the ENGINEER. The parties agree that, in addition to the ENGINEER's general and professional duties of care, the ENGINEER has a duty of care to act in accordance with the terms of this Agreement. In addition to whatever other acts or omissions of ENGINEER that constitute negligence, recklessness, or willful misconduct under applicable law, the parties

acknowledge that any act or omission of the ENGINEER that causes any damages, and constitutes a breach of any duty under, or pursuant to, this Agreement, shall at a minimum constitute negligence (and may constitute recklessness or willful conduct if so warranted by the facts).

B. The preceding paragraph applies to any and all such claims, regardless of the nature of the claim or theory of recovery. For purposes of the paragraphs found in this Article of the Agreement, "ENGINEER" shall include the ENGINEER, and/or its agents, employees, subcontractors, or other independent contractors hired by, or working under, the ENGINEER.

C. It is the intent of the parties to provide the COUNTY the fullest indemnification, defense, and "hold harmless" rights allowed under the law. No provisions of this Agreement shall be construed in a manner that would constitute a waiver or modification of Civil Code section 2782.8. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this contract and the remaining language shall be given full force and effect. Nothing contained in this Agreement shall be construed to require the ENGINEER to indemnify the COUNTY against any responsibility or liability in contravention of Civil Code 2782.8.

ARTICLE 8. <u>ENGINEER'S RESPONSIBILITY FOR ITS WORK.</u>

A. The ENGINEER has been hired by the COUNTY because of the ENGINEER's specialized expertise in performing the Work described in the attached Scope of Work, Exhibit A. The ENGINEER shall be solely responsible for such Work. The COUNTY's review, approval, and/or adoption of any designs, plans, specifications, or any other Work shall be in reliance on the ENGINEER's specialized expertise and shall not relieve the ENGINEER of its sole responsibility for the Work. The COUNTY is under no duty or obligation to review or verify the appropriateness, quality, or accuracy of any designs, plans, specifications, or any other Work, including but not limited to, any methods, procedures, tests, calculations, drawings, or other information used or created by the ENGINEER in performing any Work under this Agreement.

B. All information which the ENGINEER receives from the COUNTY should be independently verified by the ENGINEER. The ENGINEER should not rely upon such information unless it has independently verified its accuracy. The only exception to the

foregoing arises when the COUNTY has expressly stated in writing that certain information may be relied upon by the ENGINEER without the ENGINEER's independent verification. In such event, the ENGINEER is still obliged to promptly notify the COUNTY whenever the ENGINEER becomes aware of any information that is inconsistent with any information which the COUNTY has stated may be relied upon by the ENGINEER.

C. Pursuant to the provisions of this Article, the ENGINEER is responsible for all Work under this Agreement, including the work performed by any subcontractors or any other independent contractors which ENGINEER hires or contracts with regarding the Work..

ARTICLE 9. INSURANCE AND INDEMNIFICATION AS MATERIAL PROVISIONS. The parties expressly agree that the indemnification and insurance clauses in this Agreement are an integral part of the performance exchanged in this Agreement. The compensation stated in this Agreement includes compensation for the risks transferred to the ENGINEER by the indemnification and insurance clauses.

ARTICLE 10. ENGINEER'S ENDORSEMENT ON REPORTS, ETC. The ENGINEER shall endorse all reports, maps, plans, documents, materials, and other data in accordance with applicable provisions of the laws of the State of California.

ARTICLE 11. DOCUMENTS, INFORMATION AND MATERIALS OWNERSHIP.

All documents, information, and materials of any and every type prepared by the ENGINEER (or any subcontractor) pursuant to this Agreement shall be the property of the COUNTY. Such documents shall include but not be limited to data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the ENGINEER (or any subcontractor) in performing Work under this Agreement, whether completed or in process. The ENGINEER shall assume no responsibility for the unintended use by others of any such documents, information, or materials on project(s) which are not related to the scope of services described under this Agreement.

ARTICLE 12. <u>TERMINATION OF AGREEMENT WITHOUT CAUSE.</u> The COUNTY may terminate this Agreement at any time by giving the ENGINEER thirty (30) calendar days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Other than payments for services satisfactorily rendered prior to the effective date of said termination, the ENGINEER shall be entitled to no further compensation or payment of any type from the COUNTY.

ARTICLE 13. <u>TERMINATION OF AGREEMENT FOR CAUSE.</u> If the ENGINEER fails to perform the ENGINEER's duties to the satisfaction of the COUNTY; or if the ENGINEER fails to fulfill in a timely and professional manner the ENGINEER's obligations under this Agreement; or if the ENGINEER violates any of the terms or provisions of this Agreement; or if the ENGINEER, or the ENGINEER's agents or employees fails to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the COUNTY, then the COUNTY shall have the right to terminate this Agreement effective immediately upon the COUNTY giving written notice thereof to the ENGINEER. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. The ENGINEER shall be paid for all Work satisfactorily completed prior to the effective date of such termination. If the COUNTY's termination of the Agreement for cause is defective for any reason, including but not limited to the COUNTY's reliance on erroneous facts concerning the ENGINEER's performance, or any defect in notice thereof, this Agreement shall automatically terminate without cause thirty (30) calendar days following the COUNTY's written notice of termination for cause to the ENGINEER, and the COUNTY's maximum liability shall not exceed the amount payable to the ENGINEER under Article 13 above.

ARTICLE 14. <u>COMPLIANCE WITH LAWS.</u> The ENGINEER shall comply with all Federal, State, and local laws and ordinances that are applicable to the performance of the Work of this Agreement. This includes compliance with prevailing wage rates and their payment in accordance with the California Labor Code. The ENGINEER acknowledges that labor

performed on site to support any Work required under this Agreement is a public work within the meaning of Labor Code Section 1720. The ENGINEER will comply, or cause its subconsultant(s) to comply, with the provisions of Labor Code Section 1774.

ARTICLE 15. <u>COVENANT AGAINST CONTINGENT FEES.</u> The ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working for the ENGINEER, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percent, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, the COUNTY shall have the right to annul this Agreement without liability or, in 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.

ARTICLE 16. <u>DISPUTES & CLAIMS.</u>

A. **<u>NOTICE OF POTENTIAL CLAIM.</u>** The ENGINEER shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the COUNTY, or for the happening of any event, thing, occurrence, or other cause, unless the ENGINEER has provided the COUNTY with timely written Notice of Potential Claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which the ENGINEER believes additional compensation will or may be due, the nature of the cost involved, and, insofar as possible, the amount of the potential claim. The said notice as above required must have been given to the COUNTY prior to the time that the ENGINEER shall have performed the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the COUNTY, or in all other cases within fifteen (15) calendar days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim. It is the intention of this paragraph that differences between the parties relating to this Agreement be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The ENGINEER hereby agrees that it shall have no right to additional compensation for any

claim that may be based on any such act, failure to act, event, thing, or occurrence for which no written Notice of Potential Claim as herein required was filed with the COUNTY Director of Public Works.

B. **PROCESSING OF ACTUAL CLAIM.** In addition to the above requirements for Notice of Potential Claim, a detailed, Notice of Actual Claim must be submitted in writing to the COUNTY on or before the date of final payment under this Agreement. All such claims shall be governed by the procedures set forth in section 20104.2 and 20104.4 of the Public Contract Code, except that the word "claim" as used in said sections shall be construed as referring to any claim relating to this Agreement. The ENGINEER shall not be entitled to any additional compensation unless the ENGINEER has (1) provided the COUNTY with a timely written Notice of Actual Claim and (2) followed the procedures set forth in Public Contract Code section 20104.2 and 20104.4.

C. **CLAIM IS NO EXCUSE.** Neither the filing of a Notice of Potential Claim or of a Notice of Actual Claim, nor the pendency of a dispute or claim, nor its consideration by the COUNTY, shall excuse the ENGINEER from full and timely performance in accordance with the terms of this Agreement.

ARTICLE 17. ENGINEER IS AN INDEPENDENT CONTRACTOR. It is expressly understood that in the performance of the services herein provided, the ENGINEER shall be, and is, an independent contractor, and is not an agent or employee of the COUNTY. The ENGINEER has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons assisting the ENGINEER in the performance of the services rendered hereunder. The ENGINEER shall be solely responsible for all matters relating to the payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters.

ARTICLE 18. ENTIRE AGREEMENT AND MODIFICATION. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. The ENGINEER shall be entitled to no other compensation and/or benefits than those specified herein. No changes, amendments, or alterations shall be effective unless in writing and signed by both parties. Any changes increasing the ENGINEER's compensation and/or

benefits must be approved by the COUNTY's Board of Supervisors; any other changes may be signed by the County Director of Public Works on behalf of the COUNTY. The ENGINEER specifically acknowledges that in entering into and executing this Agreement, the ENGINEER relies solely upon the provisions contained in this Agreement and no others. To the extent there is any inconsistency between the text in the body of this Agreement and anything in any of the Exhibits attached hereto, the text in the body of this Agreement shall prevail.

ARTICLE 19. <u>ENFORCEABILITY.</u> If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 20. <u>WARRANTY OF ENGINEER.</u> The ENGINEER warrants that the ENGINEER and each of the personnel employed or otherwise retained by the ENGINEER for Work under this Agreement are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

ARTICLE 21. <u>SUBCONTRACTORS.</u>

A. Other than Work designated in Exhibits A and B to be performed by other persons or entities, the ENGINEER shall perform the Work contemplated with resources available within its own organization and no portion of the Work shall be subcontracted without written authorization by the COUNTY. In the event the COUNTY provides written authorization for Work to be performed by a subcontractor, the use of the words "subcontractor" and "subcontract" in this Article shall refer to such authorized subcontracting to a subcontractor of the first tier or any other tier. . The terms "subcontract" and "subcontractor" include any and all contracts or arrangements by which ENGINEER hires or enters into a contract with any subconsultants regarding any Work.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the County and any subcontractors, and no subcontract shall relieve

the ENGINEER of its responsibilities and obligations hereunder. The ENGINEER agrees to be as fully responsible to the COUNTY for the acts and omissions of its subcontractors 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 the ENGINEER. The ENGINEER's obligation to pay its subcontractors is an independent obligation from the COUNTY's obligation to make payments to the ENGINEER.

C. Any subcontract entered into by the ENGINEER relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the word "ENGINEER" where it appears in this Article.

D. Any substitution of subcontractors must be approved in writing by the COUNTY's Project Manager in advance of assigning work to a substitute subcontractor.

ARTICLE 22. <u>EQUIPMENT PURCHASE.</u>

A. Prior authorization in writing, by the COUNTY's Project Manager, shall be required before the ENGINEER enters into any unbudgeted purchase order or subcontract exceeding $5,000 for equipment. The ENGINEER shall provide an evaluation of the necessity or desirability of incurring such costs and three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

B. Any equipment purchased as a result of this Agreement is subject to the following: "The ENGINEER 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, the COUNTY shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, the ENGINEER may either keep the equipment and credit the COUNTY 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 COUNTY procedures; and credit the COUNTY in an amount equal to the sales price. If the ENGINEER elects to keep the equipment, fair market value shall be determined at the ENGINEER's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the COUNTY and the ENGINEER, if it is

determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the COUNTY."

ARTICLE 23. <u>APPLICABLE LAW AND VENUE.</u> This Agreement has been executed and delivered in the State of California and the validity, enforceability, and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

ARTICLE 24. <u>NOTICES</u>. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to the County at:

Mr. Paavo Ogren, Director
San Luis Obispo County
Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

and to the ENGINEER:

_____

_____

_____

_____

ARTICLE 25. <u>COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS</u>. Pursuant to Government Code section 7550, if the total cost of this Agreement is over $5,000, the ENGINEER shall include in all final documents and in all written reports submitted a written summary of costs, which shall set forth the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such documentation or written report. The Agreement and subagreement numbers and dollar amounts shall be contained in a separate section of such document or written report.

ARTICLE 26. CONFIDENTIALITY OF DATA.

A. All financial, statistical, personal, technical, or other data and information relative to the COUNTY's operations, which are designated confidential by the COUNTY and made available to the ENGINEER in order to carry out this Agreement, shall be protected by the ENGINEER from unauthorized use and disclosure, and shall not be made available to any individual or organization by the ENGINEER without the prior written approval of the COUNTY.

B. Permission to disclose information on one occasion, or public hearing held by the COUNTY relating to this Agreement, shall not authorize the ENGINEER to further disclose such information, or disseminate the same on any other occasion.

C. All information related to the construction estimate is confidential, and shall not be disclosed by the ENGINEER to any entity other than the COUNTY.

ARTICLE 27. RESTRICTIVE COVENANT. The ENGINEER agrees that it will not, during the continuance of this Agreement, perform or otherwise exercise the services described in Exhibit A for anyone except for the COUNTY, unless and until the COUNTY waives this restriction.

ARTICLE 28. QUALITY CONTROL AND QUALITY ASSURANCE. The ENGINEER shall provide a description of its Quality Control procedure. The process shall be implemented for all facets of Work and a QC-QA statement and signature shall be placed on all submittals to the COUNTY.

ARTICLE 29. CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR.

A. If claims are filed against the COUNTY by the COUNTY's construction contractor or any other third party that relates in any way to any subject, plans, designs, or other Work within the ENGINEER's Scope of Work under this Agreement, and additional information or assistance from the ENGINEER's personnel is requested by the COUNTY in order to evaluate or defend against such claims, the ENGINEER agrees to cooperate with and provide timely response to any reasonable requests for information submitted to the ENGINEER by the COUNTY relating to such claims. To the extent the

information requested by the COUNTY only seeks copies of documents or other factual information relating to Work performed by the ENGINEER, the ENGINEER will only be compensated for any clerical costs associated with providing the COUNTY the requested factual information.

B. The ENGINEER's personnel that the COUNTY considers essential to assist in defending against such claims will be made available for consultation with the COUNTY upon reasonable notice from the COUNTY. In the event the expert opinions of the ENGINEER's personnel is sought by the COUNTY through such consultation or through testimony, and only in such event, such consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the ENGINEER's personnel services under this Agreement. In the event the testimonies of any of the ENGINEER's personnel are sought by another party, the ENGINEER reserves the right to charge other party a different rate for deposition or trial testimony.

C. Services of the ENGINEER's personnel in connection with the COUNTY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this agreement in order to finally resolve the claims.

D. Any subcontract entered into by the ENGINEER relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the word "ENGINEER" where it appears in this Article.

ARTICLE 30. CONFLICT OF INTEREST.

A. The ENGINEER shall disclose any financial, business, or other relationship with the COUNTY that may be affected by the outcome of this Agreement, or any ensuing COUNTY construction project. The ENGINEER 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.

B. The ENGINEER 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 Agreement.

C. Any subcontract entered into by the ENGINEER relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the word “ENGINEER” where it appears in this Article.

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

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

IN WITNESS THEREOF, the parties hereto have executed this Agreement, and this Agreement shall become effective on the date shown signed by the County of San Luis Obispo.

COUNTY OF SAN LUIS OBISPO

By: _____ Date: _____

Chairperson of the Board
County of San Luis Obispo
State of California

ATTEST:

By: _____ Date: _____

County Clerk and Ex-Officio Clerk of the
Board of Supervisors, County of San Luis Obispo,
State of California

ENGINEER

By: _____ Date: _____

Name: _____

Title: _____

APPROVED AS TO FORM AND LEGAL EFFECT:
WARREN R. JENSEN
County Counsel

By: _____ Date: _____
Deputy County Counsel

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AGREEMENT FOR
PROFESSIONAL ENVIRONMENTAL CONSULTING SERVICES

This Agreement is entered into by and between the San Luis Obispo County Flood Control and Water Conservation District, a political subdivision of the State of California, herein called "DISTRICT," and _____ a California limited liability company whose address is _____ _____, herein called "CONSULTANT." This Agreement shall be effective as of the date it is fully executed by the parties.

The DISTRICT department responsible for administering this Agreement is the Department of Public Works ("Public Works"), and all written communications hereunder with the DISTRICT shall be addressed to the Director of Public Works ("Director").

WHEREAS, the DISTRICT has need for special services and advice with respect to the work described herein for the _____ Project (hereafter, the "Project"); and

WHEREAS, the CONSULTANT warrants that it is specially trained, experienced, expert, and competent to perform such special services;

NOW, THEREFORE, the parties agree with the above recitals, and hereby further agree as follows:

ARTICLE 1. **<u>SCOPE OF WORK.</u>** The CONSULTANT shall, at its own cost and expense, provide all the services, equipment, and materials necessary to complete the work described in the CONSULTANT's Scope of Work (hereafter, collectively "Work") attached hereto as Exhibit A. CONSULTANT warrants and represents that said Work encompasses all professional services necessary for the CONSULTANT's preparation of _____. All Work shall be performed to the highest professional standard.

ARTICLE 2. TIME FOR COMPLETION OF WORK. No Work shall be commenced prior to the CONSULTANT's receipt of the DISTRICT's Notice to Proceed. All Work shall be completed no later than _____, provided, however, that extensions of time may be granted in writing by the Director of Public Works of San Luis Obispo County, which said extensions of time, if any, shall be granted only for reasons attributable to inclement weather, acts of God, or for other cause determined in the sole discretion of the Director of Public Works of San Luis Obispo County to be good and sufficient cause for such extensions.

ARTICLE 3. PAYMENT FOR SERVICES.

A. **COMPENSATION.** The DISTRICT shall pay to the CONSULTANT as compensation in full for all Work required by this Agreement a sum not to exceed the _____The CONSULTANT's compensation shall be based on actual services performed and costs incurred at the rates set forth for each task in the CONSULTANT's Cost Proposal attached hereto as Exhibit B. Progress payments will be made as set forth below based on compensable services provided and allowable costs incurred pursuant to this Agreement.

B. **REPORTS.** The CONSULTANT shall submit to the DISTRICT, on a monthly basis, a detailed statement of all services performed and all Work accomplished under this Agreement since the CONSULTANT's last monthly statement, including the number of hours of Work performed and the personnel involved. For the purpose of timely processing of invoices, the CONSULTANT's invoices are not regarded as received until the monthly report is submitted. Any anticipated problems in performing any future Work shall be noted in the monthly reports. The CONSULTANT shall also promptly notify the DISTRICT of any perceived need for a change in the scope of work, and an explanation as to why the CONSULTANT did not include said work in the attached Scope of Work.

C. **INVOICES.** Billing invoices shall be based upon the CONSULTANT's Cost Proposal, attached hereto as Exhibit B. Invoices shall detail the Work performed on each task and each project as applicable. Invoices shall follow a format based upon the Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due the DISTRICT including any

equipment purchased under the provisions of Article 24 Equipment Purchase of this Agreement.

D. **CONSULTANT'S ASSIGNED PERSONNEL.** All Work performed under this Agreement shall be performed by the CONSULTANT's personnel identified in the organizational chart, attached hereto as Exhibit C. Any changes to the any personnel designated on this organizational chart must be pre-approved in writing by the DISTRICT's Project Manager.

ARTICLE 4. ACCOUNTING RECORDS.

A. The CONSULTANT shall maintain accounting records in accordance with generally accepted accounting principles. The CONSULTANT shall obtain the services of a qualified bookkeeper or accountant to ensure that accounting records meet this requirement. The CONSULTANT shall maintain acceptable books of accounts which include, but are not limited to, a general ledger, cash receipts journal, cash disbursements journal, general journal, and payroll journal.

B. The CONSULTANT shall record costs in a cost accounting system which clearly identifies the source of all costs. Agreement costs shall not be co-mingled with other project costs, but shall be directly traceable to contract billings to the DISTRICT. The use of worksheets to produce billings shall be kept to a minimum. If worksheets are used to produce billings, all entries should be documented and clearly traceable to the CONSULTANT's cost accounting records.

C. All accounting records and supporting documentation shall be retained for a minimum of five (5) years or until any audit findings are resolved, whichever is later. The CONSULTANT shall safeguard the accounting records and supporting documentation.

D. The CONSULTANT shall make accounting records and supporting documentation available on demand to the DISTRICT and its designated auditor for inspection and audit. Disallowed costs shall be repaid to the DISTRICT. The DISTRICT may require having the CONSULTANT's accounting records audited, at the CONSULTANT's expense, by an accountant licensed by the State of California. The audit shall be presented to the County Auditor-Controller within thirty (30) calendar days after completion of the audit.

ARTICLE 5. CHANGES IN SCOPE OF SERVICE. No change in the character or extent of the Work to be performed by the CONSULTANT shall be made except through a signed written amendment to this Agreement. The amendment shall set forth the proposed changes in Work, adjustment of time, and adjustment of the sum to be paid by the DISTRICT to the CONSULTANT, if any.

ARTICLE 6. NON-ASSIGNMENT OF AGREEMENT. Inasmuch as this Agreement is intended to secure the specialized services of the CONSULTANT, the CONSULTANT may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of the DISTRICT and any such assignment, transfer, delegation, or sublease without the County's prior written consent shall be considered null and void.

ARTICLE 7. INSURANCE. The CONSULTANT, at its sole cost and expense, shall purchase and maintain the insurance policies set forth below on all of its operations under this Agreement. Such policies shall be maintained for the full term of this Agreement and shall provide products/completed operations coverage for four (4) years following completion of the CONSULTANT's Work under this Agreement and acceptance by the DISTRICT. Any failure to comply with reporting provisions(s) of the policies referred to above shall not affect coverage provided to the DISTRICT, its officers, employees, volunteers, and agents. For purposes of the insurance policies required hereunder, the term "DISTRICT" shall include officers, employees, volunteers, and agents of the San Luis Obispo Flood Control and Water Conservation District, California, individually or collectively.

A. **MINIMUM SCOPE AND LIMITS OF REQUIRED INSURANCE POLICIES.** The following policies shall be maintained with insurers authorized to do business in the State of California and shall be issued under forms of policies satisfactory to the County:

1. **COMMERCIAL GENERAL LIABILITY INSURANCE POLICY ("CGL").** Policy shall include coverage at least as broad as set forth in Insurance Services Office (herein "ISO") Commercial General Liability coverage. (Occurrence Form CG0001) with policy limits not less than the following:

$1,000,000 each occurrence (combined single limit);

$1,000,000 for personal injury liability;

$1,000,000 aggregate for products-completed operations; and

$1,000,000 general aggregate.

The general aggregate limits shall apply separately to the CONSULTANT's Work under this Agreement.

2. **BUSINESS AUTOMOBILE LIABILITY POLICY ("BAL").** Policy shall include coverage at least as broad as set forth in Insurance Services Office Business Automobile Liability Coverage, Code 1 "Any Auto" (Form CA 0001). This policy shall include a minimum combined single limit of not less than One-million ($1,000,000) dollars for each occurrence, for bodily injury and/or property damage. Such policy shall be applicable to vehicles used in pursuit of any of the activities associated with this Agreement. The CONSULTANT shall not provide a Comprehensive Automobile Liability policy which specifically lists scheduled vehicles without the express written consent of County.

3. **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY ("WC / EL").** This policy shall include at least the following coverages and policy limits:

a. Workers' Compensation insurance as required by the laws of the State of California; and

b. Employer's Liability Insurance Coverage B with coverage amount not less than one-million ($1,000,000) dollars each accident / Bodily Injury (herein "BI"); one-million ($1,000,000) dollars policy limit BI by disease; and, one-million ($1,000,000) dollars each employee BI by disease.

4. **PROFESSIONAL LIABILITY INSURANCE POLICY ("PL").** This policy shall cover damages, liabilities, and costs incurred as a result of the CONSULTANT's professional errors and omissions or malpractice. This policy shall include a coverage limit of at least One-Million Dollars ($1,000,000) per claim, including the annual aggregate for all claims (such coverage shall apply during the performance of the services under this Agreement and for two (2) years thereafter with respect to incidents which occur during the performance of this Agreement). The CONSULTANT shall notify the DISTRICT if any annual aggregate is eroded by more than seventy-five percent (75%) in any given year.

B. **DEDUCTIBLES AND SELF-INSURANCE RETENTIONS.** Any deductibles and/or self-insured retentions which apply to any of the insurance policies referred to above shall be declared in writing by the CONSULTANT and approved by the DISTRICT before Work is begun pursuant to this Agreement. At the option of the DISTRICT, the CONSULTANT shall either reduce or eliminate such deductibles or self-insured retentions as respect the DISTRICT, its officers, employees, volunteers, and agents, or shall provide a financial guarantee satisfactory to the DISTRICT guaranteeing payment of losses and related investigations, claim administration, and/or defense expenses.

C. **ENDORSEMENTS.** All of the following clauses and endorsements, or similar provisions, are required to be made a part of insurance policies indicated in parentheses below:

1. A "Cross Liability", "Severability of Interest" or "Separation of Insureds" clause (CGL & BAL);
2. The San Luis Obispo Flood Control and Water Conservation District, its officers, employees, volunteers, and agents are hereby added as additional insureds with respect to all liabilities arising out of the CONSULTANT's performance of Work under this Agreement (CGL & BAL);
3. If the insurance policy covers an "accident" basis, it must be changed to "occurrence" (CGL & BAL);
4. This policy shall be considered primary insurance with respect to any other valid and collectible insurance DISTRICT may possess, including any self-insured retention DISTRICT may have, and any other insurance DISTRICT does possess shall be considered excess insurance only and shall not be called upon to contribute to this insurance (CGL, BAL, & PL);
5. No cancellation or non-renewal of this policy, or reduction of coverage afforded under the policy, shall be effective until written notice has been given at least thirty (30) calendar days prior to the effective date of such reduction or cancellation to County at the address set forth below (All Policies);
6. The CONSULTANT and its insurers shall agree to waive all rights of subrogation against the DISTRICT, its officers, employees, volunteers, and agents for any loss arising under this Agreement (CGL); and
7. Deductibles and self-insured retentions must be declared (All Policies).

D. **ABSENCE OF INSURANCE COVERAGE.** The DISTRICT may direct the CONSULTANT to immediately cease all activities with respect to this Agreement if it determines that the CONSULTANT fails to carry, in full force and effect, all insurance policies with coverages at or above the limits specified in this Agreement. Any delays or expense caused due to stopping of Work and change of insurance shall be considered the CONSULTANT's delay and expense. At the DISTRICT's discretion, under conditions of lapse, the DISTRICT may purchase appropriate insurance and charge all costs related to such policy to the CONSULTANT.

E. **PROOF OF INSURANCE COVERAGE AND COVERAGE VERIFICATION.** Prior to commencement of Work under this Agreement, and annually thereafter for the term of this Agreement, the CONSULTANT, or each of the CONSULTANT's insurance brokers or companies, shall provide the DISTRICT a current copy of a Certificate of Insurance, on an Accord or similar form, which includes complete policy coverage verification, as evidence of the stipulated coverages. All of the insurance companies providing insurance for the CONSULTANT shall have, and provide evidence of, a Best Rating Service rate of A VI or above. The Certificate of Insurance and coverage verification and all other notices related to cancellation or non-renewal shall be mailed to:

Mark Hutchinson, Public Works Department
Room 207, County Government Center
San Luis Obispo CA 93408

ARTICLE 8. INDEMNIFICATION.

Consultant shall defend, indemnify and hold harmless the DISTRICT, its officers and employees from all claims, demands, damages, costs, expenses, judgments, attorney fees, liabilities or other losses that may be asserted by any person or entity, and that arise out of or are made in connection with the acts or omissions relating to the performance of any duty, obligation, or work hereunder. The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses arise from the comparative negligence of the DISTRICT its officers and employees. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the DISTRICT, its officers and employees.

The preceding paragraph applies to any theory of recovery relating to said act or omission, by the Consultant, or its agents, employees, or other independent contractors directly responsible to Consultant including, but not limited to the following:

1. Violation of statute, ordinance, or regulation.
2. Professional malpractice.
3. Willful, intentional or other wrongful acts, or failures to act.
4. Negligence or recklessness.
5. Furnishing of defective or dangerous products.
6. Premises liability.
7. Strict Liability.
8. Violation of civil rights.
9. Violation of any federal or state statute, regulation, or ruling resulting in a determination by the Internal Revenue Service, California Franchise Tax Board or any other California public entity responsible for collecting payroll taxes, when the Consultant is not an independent contractor.

It is the intent of the parties to provide the DISTRICT the fullest indemnification, defense, and hold harmless rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this contract and the remaining language shall be given full force and effect.

ARTICLE 9. CONSULTANT'S RESPONSIBILITY FOR ITS WORK.

A. The CONSULTANT has been hired by the DISTRICT because of the CONSULTANT's specialized expertise in performing the Work described in the attached Scope of Work, Exhibit A. The CONSULTANT shall be solely responsible for such Work. The DISTRICT's review, approval, and/or adoption of any Work product shall be in reliance on the CONSULTANT's specialized expertise and shall not relieve the CONSULTANT of its sole responsibility for the Work. The DISTRICT is under no duty or obligation to review or verify the appropriateness, quality, or accuracy of any Work product, including but not limited to, any methods, procedures, tests, calculations, drawings, or other information used or created by the CONSULTANT in performing any Work under this Agreement.

B. All information which the CONSULTANT receives from the DISTRICT should be independently verified by the CONSULTANT. The CONSULTANT should not rely upon such information unless it has independently verified its accuracy. The only exception to the foregoing arises when the DISTRICT has expressly stated in writing that certain information may be relied upon by the CONSULTANT without the CONSULTANT's independent verification. In such event, the CONSULTANT is still obliged to promptly notify the DISTRICT whenever the CONSULTANT becomes aware of any information that is inconsistent with any information which the DISTRICT has stated may be relied upon by the CONSULTANT.

C. Pursuant to the provisions of this Article, the CONSULTANT is responsible for all Work under this Agreement, including the work performed by any subcontractors or any other independent contractors which CONSULTANT hires or contracts with regarding the Work.

ARTICLE 10. <u>INSURANCE AND INDEMNIFICATION AS MATERIAL PROVISIONS.</u> The parties expressly agree that the indemnification and insurance clauses in this Agreement are an integral part of the performance exchanged in this Agreement. The compensation stated in this Agreement includes compensation for the risks transferred to the CONSULTANT by the indemnification and insurance clauses.

ARTICLE 11. <u>CONSULTANT'S ENDORSEMENT ON REPORTS, ETC.</u> The CONSULTANT shall endorse all reports, maps, plans, documents, materials, and other data in accordance with applicable provisions of the laws of the State of California.

ARTICLE 12. <u>DOCUMENTS, INFORMATION AND MATERIALS OWNERSHIP.</u> All documents, information, and materials of any and every type prepared by the CONSULTANT (or any subcontractor) pursuant to this Agreement shall be the property of the DISTRICT. Such documents shall include but not be limited to data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the CONSULTANT (or any subcontractor) in performing Work under this Agreement, whether completed or in process. The CONSULTANT shall assume no responsibility for the unintended use by others of any

such documents, information, or materials on project(s) which are not related to the scope of services described under this Agreement.

ARTICLE 13. TERMINATION OF AGREEMENT WITHOUT CAUSE. The DISTRICT may terminate this Agreement at any time by giving the CONSULTANT thirty (30) calendar days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Other than payments for services satisfactorily rendered prior to the effective date of said termination, the CONSULTANT shall be entitled to no further compensation or payment of any type from the DISTRICT.

ARTICLE 14. TERMINATION OF AGREEMENT FOR CAUSE. If the CONSULTANT fails to perform the CONSULTANT's duties to the satisfaction of the DISTRICT; or if the CONSULTANT fails to fulfill in a timely and professional manner the CONSULTANT's obligations under this Agreement; or if the CONSULTANT violates any of the terms or provisions of this Agreement; or if the CONSULTANT, or the CONSULTANT's agents or employees fails to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the DISTRICT, then the DISTRICT shall have the right to terminate this Agreement effective immediately upon the DISTRICT giving written notice thereof to the CONSULTANT. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. The CONSULTANT shall be paid for all Work satisfactorily completed prior to the effective date of such termination. If the DISTRICT's termination of the Agreement for cause is defective for any reason, including but not limited to the DISTRICT's reliance on erroneous facts concerning the CONSULTANT's performance, or any defect in notice thereof, this Agreement shall automatically terminate without cause thirty (30) calendar days following the DISTRICT's written notice of termination for cause to the CONSULTANT, and the DISTRICT's maximum liability shall not exceed the amount payable to the CONSULTANT under Article 13 above.

ARTICLE 15. COMPLIANCE WITH LAWS. The CONSULTANT shall comply with all Federal, State, and local laws and ordinances that are applicable to the performance of

the Work of this Agreement. This includes compliance with applicable prevailing wage rates and their payment in accordance with the California Labor Code. The CONSULTANT will comply, or cause its subconsultant(s) to comply, with the applicable provisions of Labor Code Section 1774.

ARTICLE 16. COVENANT AGAINST CONTINGENT FEES. The CONSULTANT warrants that it 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 it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percent, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, the DISTRICT shall have the right to annul this Agreement without liability or, in 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.

ARTICLE 17. DISPUTES & CLAIMS.

A. **NOTICE OF POTENTIAL CLAIM.** The CONSULTANT shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the DISTRICT, or for the happening of any event, thing, occurrence, or other cause, unless the CONSULTANT has provided the DISTRICT with timely written Notice of Potential Claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which the CONSULTANT believes additional compensation will or may be due, the nature of the cost involved, and, insofar as possible, the amount of the potential claim. The said notice as above required must have been given to the DISTRICT prior to the time that the CONSULTANT shall have performed the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the DISTRICT, or in all other cases within fifteen (15) calendar days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim. It is the intention of this paragraph that differences between the parties relating to this Agreement be brought to the attention of the DISTRICT at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The

CONSULTANT hereby agrees that it shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing, or occurrence for which no written Notice of Potential Claim as herein required was filed with the DISTRICT Director of Public Works.

B. **PROCESSING OF ACTUAL CLAIM.** In addition to the above requirements for Notice of Potential Claim, a detailed, Notice of Actual Claim must be submitted in writing to the DISTRICT on or before the date of final payment under this Agreement. All such claims shall be governed by the procedures set forth in section 20104.2 and 20104.4 of the Public Contract Code, except that the word "claim" as used in said sections shall be construed as referring to any claim relating to this Agreement. The CONSULTANT shall not be entitled to any additional compensation unless the CONSULTANT has (1) provided the DISTRICT with a timely written Notice of Actual Claim and (2) followed the procedures set forth in Public Contract Code section 20104.2 and 20104.4.

C. **CLAIM IS NO EXCUSE.** Neither the filing of a Notice of Potential Claim or of a Notice of Actual Claim, nor the pendency of a dispute or claim, nor its consideration by the DISTRICT, shall excuse the CONSULTANT from full and timely performance in accordance with the terms of this Agreement.

ARTICLE 18. CONSULTANT IS AN INDEPENDENT CONTRACTOR. It is expressly understood that in the performance of the services herein provided, the CONSULTANT shall be, and is, an independent contractor, and is not an agent or employee of the DISTRICT. The CONSULTANT has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons assisting the CONSULTANT in the performance of the services rendered hereunder. The CONSULTANT shall be solely responsible for all matters relating to the payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters.

ARTICLE 19. ENTIRE AGREEMENT AND MODIFICATION. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. The CONSULTANT shall be entitled to no other compensation and/or benefits than those specified herein. No changes, amendments, or alterations shall be

effective unless in writing and signed by both parties. Any changes increasing the CONSULTANT's compensation and/or benefits must be approved by the DISTRICT's Board of Supervisors; any other changes may be signed by the County Director of Public Works on behalf of the DISTRICT. The CONSULTANT specifically acknowledges that in entering into and executing this Agreement, the CONSULTANT relies solely upon the provisions contained in this Agreement and no others. To the extent there is any inconsistency between the text in the body of this Contract and anything in any of the Exhibits attached hereto, the text in the body of this Contract shall prevail.

ARTICLE 20. ENFORCEABILITY. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 21. WARRANTY OF CONSULTANT. The CONSULTANT warrants that the CONSULTANT and each of the personnel employed or otherwise retained by the CONSULTANT for Work under this Agreement are, where required by law and regulation, properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

ARTICLE 22. SUBCONTRACTORS.

A. Other than Work designated in Exhibits A and B to be performed by other persons or entities, the CONSULTANT shall perform the Work contemplated with resources available within its own organization and no portion of the Work shall be subcontracted without written authorization by the DISTRICT. In the event the DISTRICT provides written authorization for Work to be performed by a subcontractor, the use of the words "subcontractor" and "subcontract" in this Article shall refer to such authorized subcontracting to a subcontractor of the first tier or any other tier. The terms "subcontract" and "subcontractor" include any and all contracts or arrangements by which CONSULTANT hires or enters into a contract with any subconsultants regarding any Work.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the DISTRICT and any subcontractors, and no subcontract shall

relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the DISTRICT for the acts and omissions of its subcontractors 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 the CONSULTANT. The CONSULTANT's obligation to pay its subcontractors is an independent obligation from the DISTRICT's obligation to make payments to the CONSULTANT.

C. Any subcontract entered into by the CONSULTANT relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the word "CONSULTANT" where it appears in this Article.

D. Any substitution of subcontractors must be approved in writing by the DISTRICT's Project Manager in advance of assigning work to a substitute subcontractor.

ARTICLE 23. EQUIPMENT PURCHASE.

A. Prior authorization in writing, by the DISTRICT's Project Manager, shall be required before the CONSULTANT enters into any unbudgeted purchase order or subcontract exceeding $5,000 for equipment. The CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs and three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

B. Any equipment purchased as a result of this Agreement is subject to the following: "The 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, the DISTRICT shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, the CONSULTANT may either keep the equipment and credit the DISTRICT 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 DISTRICT procedures; and credit the DISTRICT in an amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be determined

at the 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 the DISTRICT and the CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the DISTRICT."

ARTICLE 24. APPLICABLE LAW AND VENUE. This Agreement has been executed and delivered in the State of California and the validity, enforceability, and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

ARTICLE 25. NOTICES. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to the County at:

Mr. Paavo Ogren, Director
San Luis Obispo County
Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

and to the CONSULTANT:

ARTICLE 26. COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS. Pursuant to Government Code section 7550, if the total cost of this Agreement is over $5,000, the CONSULTANT shall include in all final documents and in all written reports submitted a written summary of costs, which shall set forth the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such documentation or written report. The Agreement and subagreement numbers and dollar amounts shall be contained in a separate section of such document or written report.

ARTICLE 27. CONFIDENTIALITY OF DATA.

A. All financial, statistical, personal, technical, or other data and information relative to the DISTRICT's operations, which are designated confidential by the DISTRICT and made available to the CONSULTANT in order to carry out this Agreement, shall be protected by the CONSULTANT from unauthorized use and disclosure, and shall not be made available to any individual or organization by the CONSULTANT without the prior written approval of the DISTRICT.

B. Permission to disclose information on one occasion, or public hearing held by the DISTRICT relating to this Agreement, shall not authorize the CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

C. All information related to the construction estimate is confidential, and shall not be disclosed by the CONSULTANT to any entity other than the DISTRICT.

ARTICLE 28. RESTRICTIVE COVENANT. The CONSULTANT agrees that it will not, during the continuance of this Agreement, perform or otherwise exercise the services described in Exhibit A for anyone except for the DISTRICT, unless and until the DISTRICT waives this restriction.

ARTICLE 29. CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR.

A. If claims are filed against the DISTRICT by any third party that relate in any way to any Work product within the CONSULTANT's Scope of Work under this Agreement, and additional information or assistance from the CONSULTANT's personnel is requested by the DISTRICT in order to evaluate or defend against such claims, the CONSULTANT agrees to cooperate with and provide timely response to any reasonable requests for information submitted to the CONSULTANT by the DISTRICT relating to such claims. To the extent the information requested by the DISTRICT only seeks copies of documents or other factual information relating to Work performed by the CONSULTANT, the CONSULTANT will only be compensated for any clerical costs associated with providing the DISTRICT the requested factual information.

B. The CONSULTANT's personnel that the DISTRICT considers essential to assist in defending against such claims will be made available for consultation with the DISTRICT upon reasonable notice from the DISTRICT. In the event the expert

opinions of the CONSULTANT's personnel is sought by the DISTRICT through such consultation or through testimony, and only in such event, such consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the CONSULTANT's personnel services under this Agreement. In the event the testimonies of any of the CONSULTANT's personnel are sought by another party, the CONSULTANT reserves the right to charge other party a different rate for deposition or trial testimony.

C. Services of the CONSULTANT's personnel in connection with the DISTRICT's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this agreement in order to finally resolve the claims.

D. Any subcontract entered into by the CONSULTANT relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the word "CONSULTANT" where it appears in this Article.

ARTICLE 31. <u>CONFLICT OF INTEREST.</u>

A. The CONSULTANT shall disclose any financial, business, or other relationship with the DISTRICT that may be affected by the outcome of this Agreement, or any ensuing DISTRICT construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing DISTRICT construction project, which will follow.

B. The 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 Agreement.

C. Any subcontract entered into by the CONSULTANT relating to this Agreement, shall bind the subcontractor to all of the provisions of this Article by incorporating the provisions of this Article in any such subcontract, and substituting the name of the subcontractor in place of the word "CONSULTANT" where it appears in this Article.

D. The CONSULTANT hereby certifies that neither the CONSULTANT, nor any firm affiliated with the CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from

this Agreement. An affiliated firm is one, which is subject to the control of one or more of the same persons through joint-ownership, or otherwise.

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

IN WITNESS THEREOF, the parties hereto have executed this Agreement, and this Agreement shall become effective on the date shown signed by the County of San Luis Obispo.

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By: _____ Date: _____

Chairperson of the Board
San Luis Obispo County Flood Control and
Water Conservation District
State of California

ATTEST:

By: _____ Date: _____

County Clerk and Ex-Officio Clerk of the
Board of Supervisors, County of San Luis Obispo,
State of California

By: _____ Date: _____

Name: _____

Title: _____

MASTER SERVICE AGREEMENT
FOR RIGHT OF WAY APPRAISAL SERVICES

This Agreement, made this ____ day of _____, 20___, by and between the County of San Luis Obispo, hereinafter called "County", and _____ _____, hereinafter called "Appraiser";

WITNESSETH:

WHEREAS, County has need of real property appraisal and valuation services in connection with the acquisition of real property interests for Public Projects; and

WHEREAS, the County seeks the assistance of a qualified and duly licensed appraiser to provide the appraisals and statutory valuations of just compensation in support of the acquisition of real property interests required for said Projects, within the established Project timelines, and under the oversight and general direction of the County's Right of Way Agent; and

WHEREAS, Appraiser represents that it has the experience and expertise to provide the desired appraisal and valuation services, and is best qualified to provide the desired appraisal and valuation services.

WHEREAS, Appraiser is willing to provide further specified appraisal and valuation services for said Projects under terms and conditions acceptable to County;

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

1. County hereby engages Appraiser and Appraiser hereby agrees to perform the appraisal and valuation services in connection with the County's acquisition of real property interests for Projects as needed by the County.

2. Appraiser shall appraise such real property interests as will be set forth by County on an "as needed" basis for various Projects during the term of this contract. Said appraisals and valuations shall be made in accordance with accepted appraisal practices and procedures, and pursuant to Federal, State and Local funding guidelines, regulations, and eminent domain statutes including, but not limited to, Section 1263.32 of the Code of Civil Procedure, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), and subject to the review, approval, and acceptance by the County's Department of Public Works in accordance with the Review Checklist attached hereto as Exhibit "C".

3. For each parcel assigned to Appraiser, Appraiser will provide the County with a hard copy (and an electronic copy) of a summary report of the basis of the appraisal in a form to be approved and accepted by the County. This summary report shall also include a separate summary of the information described in Government Code section 7267.2. Although the County reserves the right to receive from the Appraiser any other written information relating to the appraisal, no other written information shall be delivered to County other than the summary report unless specifically requested by the County.

4. The completed appraisal reports are to be delivered to the County Right of Way Agent, on or before the Project delivery schedule set forth and agreed upon by the parties for all pertinent parcels required for each Project for which Consultant's assistance is requested. The date of delivery may not be extended without the written authorization of the Department of Public Works. Appraiser shall bill County monthly in accordance with the attached proposed fee schedule (Exhibit A) and Appraiser agrees to perform, in full, all services required of Appraiser by this Agreement for not more than the total Project Maximum to be established by the parties prior to commencement of work on each Project for which Consultant's assistance is requested provided, however, that this Project Maximum is based upon the anticipated number and type of appraisals for each such Project and as documented by a 'Project Parcel Summary' to be prepared and maintained by the County Right of Way Agent. The total estimated sum for each Project to include all

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reimbursable expenses such as overhead, staff, travel, fuel, report production, etc. In no event shall the total amount for all Project related work under this contract exceed $250,000.00.

5. Upon the specific request of the Department of Public Works, Appraiser agrees to provide advice and consultation services at appraisal conferences and at pre-trial conferences not directly connected with the preparation of said Project appraisal reports at the rate of $_____ per hour for time actually spent in said conferences. If requested by the County, and subject to the provisions of paragraph 11, Appraiser will appear in Court as expert witnesses in any litigation involving any of the properties appraised by Appraiser. Appraiser will be paid $_____ per hour for actual time spent testifying in any deposition or trial in any such litigation in which the County has designated Appraiser as an expert witness.

6. Amounts due Appraiser under the provisions of paragraph 5 hereof shall be paid to Appraiser monthly upon submission of proper invoices by Appraiser. Appraiser understands and agrees that the total payment for all services rendered pursuant to Section 5 shall not exceed the greater of 25% of the pertinent Project Maximum or $62,500.

7. Appraiser agrees that all its appraisal work and conclusions of value regarding any properties affected by the Project are for the confidential information of the County, the County's acquisition agent, and the County's attorney(s) and that the Appraiser will not disclose its conclusions, in whole or in part, to any person whatsoever, other than as provided in this Agreement or upon the written consent of the County.

8. Title and ownership of all appraisal reports prepared by or for Appraiser regarding any properties affected by the Project shall be and remain the property of the County, and may be used in any manner whatsoever by any person, firm or corporation without the express consent of the County in writing.

9. County shall furnish Appraiser the following items for said project:

(a) Preliminary Title Reports, Parcel Maps, Legal Descriptions, including areas to be acquired and areas of remainder properties, and any extraordinary requirements or deed language for each property or interest therein to be appraised.

(b) Construction details for the entire project, including physical changes and other work incidental to the project, along with any reasonably required engineering assistance Appraiser may need to properly understand such construction details for the Appraiser's performance of the appraisal services rendered pursuant to this Agreement.

10. Appraiser shall perform the work hereunder as independent contractors and under no circumstance or condition shall Appraiser or any agent, representative, or employee of Appraiser be considered as an employee or agent of the County. Nothing in this Agreement is intended to create an employer-employee relationship, a joint venture relationship, or to allow the County to exercise discretion or control over the professional manner in which Appraiser perform the services which are the subject of this Agreement.

11. Appraiser agrees that all work to be performed under this Agreement shall be performed under the direction and control of Appraiser. If requested by the County, Appraiser agrees to appear in court as an expert appraisal witness in any litigation involving any of the properties appraised by Appraiser. Appraiser will not substitute another appraiser in place of Appraiser, without the prior written consent of County. Additionally, County reserves the right to call for advice from any of Appraiser's personnel at any time such advice is deemed by the County to be necessary.

12. This Agreement shall not be assigned or transferred in whole or in part without the prior written consent of the other party.

13. Appraiser shall maintain in full force and effect, for the period covered by this Agreement comprehensive general and vehicle liability insurance. This comprehensive general and vehicle liability

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insurance shall include, but not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property, resulting from any act or occurrence arising out of Appraiser operations in the performance of this Agreement, including, without limitation, acts involving vehicles. The amounts of insurance shall be not less that the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of $500,000.

Appraiser shall either (1) require each of their subcontractors to procure and to maintain during the life of this subcontract, subcontractor's general and vehicle liability insurance of the type and in the same amounts as specified in the preceding paragraph, or (2) insure the activities of his subcontractors in his own policy.

The following endorsements must be attached to the policy:

(a) If the insurance policy covers on an "accident basis" it must be changed to "occurrence".

(b) The policy must cover personal injury as well as bodily injury.

(c) The policy must name the County, its officers and employees as additional insureds under the policy, and the policy shall provide that the insurance will operate as primary insurance and that no other insurance held by the County will be called upon to contribute to a loss covered by said policy.

(d) Contractual liability coverage either on a blanket basis or by identifying this Agreement within a contractual liability endorsement.

(e) "Cross Liability" ("Severability of Interests Endorsement") such that each insured is covered as if separate policies had been issued to each insured.

. ,

At the time of execution of this Agreement, Appraiser shall submit to County certificates of insurance evidencing that Appraiser has such insurance and that such insurance names the County as an additional insured. Said certificates shall state that the policy shall not be cancelled or reduced in coverage without thirty (30) days written notice to County, and in addition, said certificates shall show the type, amount, class of operations covered, effective dates, the date of expiration of the insurance policy, and that the policy contains the endorsements set forth above. In addition, County reserves the right to demand, at any time, copies of any or all of Appraiser insurance policies. Appraiser agrees to deliver said policies to County within five days after Appraiser's receipt of County's demand for same.

If Appraiser fails or refuses to procure or to maintain the insurance required by this Agreement, or fail or refuse to furnish, within the time limits specified above, the required certificates of insurance, or the insurance policies, if demanded, County shall have the right to forthwith terminate this Agreement.

14. Appraiser shall defend, indemnify, and save harmless the County of San Luis Obispo, its officers, agents, and employees, from any and all claims, demands, damages, costs, expenses, judgments or liability arising out of this Agreement, or occasioned by the performance or attempted performance of the provisions hereof, including but not limited to, any act on the part of the Appraiser of their agents or employees or independent contractors directly responsible to them; except that the above shall not apply to the sole negligence or willful misconduct of the County or the County's agents, servants or other independent contractors who are directly responsible to County.

15. This Agreement shall become effective on the day and year first above written, and shall remain in force until completion of all work described under this Agreement.

16. Notwithstanding any other provision of this Agreement, County shall have the absolute right at any time to suspend or terminate this Agreement, or any work or portion thereof to be performed pursuant to

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this Agreement, upon giving 10 days written notice of such suspension or termination to Appraiser. In the event of termination or suspension, Appraiser shall cease all work under this Agreement immediately upon receipt of notice of termination or suspension.

In the event of termination of this Agreement by County in the absence of default of Appraiser, County shall pay Appraiser the reasonable value of the services determined by the Department of Public Works to have been satisfactorily accomplished by Appraiser up to the date of such termination, less the aggregate of all sums previously paid to Appraiser for services accomplished after execution of this Agreement and prior to its termination; provided, however, that in no event shall Appraiser be entitled to receive more than the total sum provided in paragraph 6 of this Agreement. Appraiser hereby expressly waives any and all claims for damage for compensation arising under this Agreement, except as set forth in this paragraph 6, in the event of such termination.

In the event of termination of this Agreement and upon demand of County, Appraiser shall deliver to County all documents, notes and data made, accumulated, or compiled by or for Appraiser in the performance of this Agreement, and the ownership of all such documents, notes and data shall be vested in the County.

17. Appraiser warrants and represents that they have no interest, present or contemplated, in the property or properties affected by the Project, including the parcels referenced in this Agreement. Appraiser further warrants and represents by the execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage, brokerage, or contingency.

18. Appraiser shall maintain and retain for examination and audit all books, papers, accounting records, and other documents pertaining to the cost and performance of this Agreement. Appraiser shall make such books, records and documents available to the State Auditor General, the State, the County, and/or their duly authorized representatives, during the term, and for the period of three years after the date of final payment under this contract. (Government Code Section 10532.)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

APPRAISER

By: _____

Name:

Title:

Firm:

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COUNTY OF SAN LUIS OBISPO

_____ Dated: _____, 20___
Chairperson of the Board of Supervisors

ATTEST:
Julie L. Rodewald County Clerk-Recorder
and Ex-Officio Clerk of the Board of Supervisors
County of San Luis Obispo

_____
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN
County Counsel

By: _____
Deputy County Counsel

RECOMMENDED FOR APPROVAL:

Department of Public Works:

By: _____
PHIL ACOSTA
Right of Way Agent

WBS#_____, Project: _____
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MASTER SERVICE AGREEMENT
FOR RIGHT OF WAY ACQUISITION SERVICES

This agreement, made this _____ day of _____, 20___ , by and between the County of San Luis Obispo, hereinafter called "County", and _____ _____, hereinafter called "Consultant";

W I T N E S S E T H:

WHEREAS, County has need of real property acquisition services in connection with public projects (Projects); and

WHEREAS, the County seeks the assistance of a qualified consulting right of way acquisition firm to undertake the right of way acquisition for Public Projects within established Project timelines under the oversight and general direction of the County's Right of Way Agent; and

WHEREAS, Consultant represents that it has the experience and expertise to provide the desired Right of Way Acquisition services, and is best qualified to provide such services.

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

1. Scope of Services. Consultant shall provide services to County for the Project within the County of San Luis Obispo, as described herein.

a. Consultant shall review project plans and the listing of property interests and property owners, to be prepared and provided by County to Consultant, and Consultant shall assist the County Right of Way Agent and Project Team to refine and update said listing of property interests and owners as needed to assure that all such interests and ownerships required for the project are represented thereon.

b. Consultant shall prepare and organize files on each identified ownership and assemble title reports, legal descriptions and appraisals, which shall be obtained by County and provided to Consultant along with Project Plans, and other pertinent information, in preparation for making contact with and presenting purchase offers to owners on behalf of County.

c. Consultant shall prepare offers for presentation to property owners, including but not limited to Offer Letters, Appraisal Summary Statements, Deeds, and Real Property Transfer Agreements (or Right of Way Agreements), pursuant to Federal, State, and County real property acquisition and eminent domain statutes and regulations including, but not limited to, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), and in a format pre-approved by County and subject to recommendation for acceptance by County Counsel and subject to final acceptance by the County Board of Supervisors.

d. Consultant shall contact each affected property owner and offer to personally meet with them to present the required offer to purchase on behalf of the County, and shall negotiate and secure the requisite agreements with, and conveyances from, said owners in conformance with said statutes and regulations including, but not limited to said Uniform Act. Consultant shall coordinate negotiations with the County Right of Way Agent as needed to assure efficient processing of agreements and conveyances through

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County Counsel, the County Board of Supervisors, the County Clerk-Recorder's Office, and Escrow. Negotiations warranting further eminent domain activities, as determined by the County Right of Way Agent or by County Counsel, are to be referred to the County for further action as soon as possible.

3. Organization and Staffing for Consultant. The following personnel will coordinate for Consultant at County's direction, all services described herein under Scope of Services: _____
_____
_.

4. Compensation. Consultant shall bill County in accordance with the attached proposal and fee schedule (Exhibit A) and Consultant agrees to perform, in full, all services required of Consultant by this Agreement for not more than the total project limit to be established prior to commencing work on each project for which Consultant's assistance is requested, provided however, that this 'Project Maximum' is based upon the anticipated number and type of acquisitions for each such Project and as documented by a 'Project Parcel Summary' to prepared and maintained by the County Right of Way Agent. The total estimated sum for each such Project to include reimbursable expenses, such as mileage, postage and special delivery charges.

5. Billing. Consultant shall submit to County, on a monthly basis, a detailed statement of services and cost of services performed for each Project and showing the appropriate Project Number and any related Purchase Order Number. The net amount due shown on such statements shall be due within thirty (30) days following the date of this statement.

6. Term of Contract. This contract shall commence upon execution by the San Luis Obispo County Board of Supervisors and terminate two (2) years after said date of execution, unless said work is completed on a date prior thereto or unless terminated earlier as provided herein. Termination of term of the Contract may be effectuated by the County Director of Public Works without the need for action, approval or ratification of the Board of Supervisors.

7. Termination of Agreement for Convenience. Notwithstanding any other paragraph or provision of this Agreement, County shall have the absolute right, at any time, to suspend or terminate this Agreement, or any work or portion thereof to be performed pursuant to this Agreement, upon giving thirty (30) days written notice of such suspension or termination to Consultant.

a. In the event of termination of this Agreement by County in the absence of default of Consultant, County shall pay Consultant the reasonable value of the services determined by the County Director of Public Works of San Luis Obispo County to have been satisfactorily accomplished by Consultant up to the date of such termination; provided however, that in no event shall Consultant be entitled to receive more than the total lump sum payment provided herein.

b. In the event of termination of this Agreement by County, Consultant hereby expressly waives any and all claims for damages or for compensation under this Agreement, except as set forth in this section.

c. In the event of termination of this Agreement, and upon demand by County, Consultant shall deliver to County all draft reports, maps, plans, documents, materials, and other data prepared, collected, or obtained in the performance of this Agreement, and the ownership of all such reports, maps, plans, mailing lists, easement descriptions, exhibits, documents, materials and other data shall be vested in the County.

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8. Termination of Contract for Cause. If Consultant fails to perform Consultant's duties to the satisfaction of County, or if Consultant fails to fulfill in a timely and professional manner Consultant's obligations under this Contract or if Consultant shall violate any of the terms or provisions of this Contract, or if Consultant or Consultant's agents or employees fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon County, the County shall have the right to terminate this Contract effective immediately upon County giving written notice thereof to the Consultant. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Consultant shall be paid for all work satisfactorily completed prior to the effective date of such termination. If County's termination of the Contract for cause is defective for any reasons, including but not limited to County's reliance on erroneous facts concerning Consultant's performance, or any defect in notice thereof, the notice shall be deemed a notice of termination for convenience under Paragraph 7, and the County's maximum liability shall not exceed the amount payable to Consultant under Paragraph 7 above.

9. Equal Employment Opportunity. During the performance of this Contract, Consultant agrees that, relative to work under this Contract, Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national original, and hereby promises to comply with the provisions of Consultant agreements contained in Presidential Executive Order Number 11246.

10. Entire Agreement and Modification. This Contract constitutes the entire understanding of the parties hereto. Consultant shall be entitled to no other benefits than those specified herein. No changes, amendments or alternation shall be effective unless in writing and signed by both parties, Consultant specifically acknowledges that in entering into and executing this Contract, Consultant relies solely upon the provisions contained in this Contract and no others.

11. Non-Assignment of Contract. Inasmuch as this Contract is intended to secure the specialized services of Consultant, Consultant may not assign, transfer, delegate or sublet any interest herein without the prior written consent of County and any such assignment, transfer, delegation or sublease without County's prior written consent shall be considered null and void.

12. Covenant. This Contract has been executed and delivered in the State of California, and the validity and enforceability of this Contract and the interpretation of any of the clauses of this Contract shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County and said County shall be venue for any action or proceeding that may be brought or arise out of, in connection with, or by reason of, this Contract.

13. Enforceability. If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

14. Employment Status. Consultant shall, during the entire term of this Contract, be construed to be an independent contractor and nothing in this Contract is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow County to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject matter of this Contract; provided always however, that the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Consultant understands and agrees that Consultant's personnel are not and will not be eligible for membership in or any benefits from any County group plan for hospital, surgical or medical

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insurance or for membership in any County retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for any other benefit which accrues to a County employee.

15. Warranty of Consultant. Consultant warrants that Consultant and each of the personnel employed or otherwise retained by Consultant for work under this Contract are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

16. California Law. It is agreed that this Contract shall be governed by the laws of the State of California.

17. Indemnification. Consultant shall defend, indemnify and hold harmless the County, its officers and employees from all claims, demands, damages, costs, expenses, judgments, attorney fees, liabilities or other losses that may be asserted by any person or entity, including Consultant, and that arise out of or are made in connection with the negligent acts or omissions, or willful misconduct, or Consultant in the performance of any duty, obligation, or work hereunder. The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses are brought by the comparative negligence of the County, its officers and employees. However, this indemnity will not extend to any claims or losses arising solely out of the negligence or willful misconduct of the County, its officers and employees.

The preceding paragraph applies to any theory of recovery to said act or omission, including but not limited to the following:

a) Violation of statute, ordinance, or regulation.

b) Profession malpractice.

c) Willful, intentional or other wrongful acts, or failures to act.

d) Negligence or recklessness.

e) Furnishing of defective or dangerous products.

f) Premises liability.

g) Violation of civil rights.

h) Violation of any federal or state statute, regulation, or ruling resulting in a determination by the Internal Revenue Service, California Franchise Tax Board, or any other California public entity responsible for collecting payroll taxes, when the Consultant is not an independent contractor.

It is the intent of the parties to provide the County the fullest indemnification, defense and "hold harmless" rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this contract and the remaining language shall be given full force and effect.

18. Insurance. Consultant at its sole cost and expense, shall purchase and maintain the insurance policies set forth below on all of its operations under this Agreement. Such policies shall be maintained for the full term of this Agreement and the related warranty period (if applicable). Any failure to comply with reporting provision(s) of the policies referred to above shall not affect coverage provided to the County, its officers, employees, volunteers and agents. For purposes of the insurance policies

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required hereunder, the term "County" shall include officers, employees, volunteers and agents of the County of San Luis Obispo, California, individually or collectively.

A. Minimum Scope and Limits or Required Insurance Policies. The following policies shall be maintained with insurers authorized to do business in the State of California and shall be issued under forms of policies satisfactory to the County:

1. Commercial General Liability Insurance Policy ("CGL") Policy shall include coverage at least as broad as set forth in Insurance Services Office (herein "ISO") Commercial General Liability coverage (Occurrence For CG0001), with policy limits not less than the following:

   a. $1,000,000 each occurrence (combined single limit);
   b. $1,000,000 for personal injury liability**;**
   c. $1,000,000 aggregate for products-completed operations; and,
   d. $1,000,000 general aggregate.
   e. $1,000,000 non-owned auto coverage.
   f. The general aggregate limits shall apply separately to Contractor's work, under this agreement.

2. Workers' Compensation and Employers' Liability Insurance Policy ("WC/EL") This policy shall include at least the following coverages and policy limits:

   a. Workers' Compensation insurance as required by the laws of the State of California**;** and

   b. Employer's Liability Insurance Coverage B with coverage amounts not less than one million ($ 1,000,000) dollars each accident/Bodily Injury (herein "BI"); one million ($ 1,000,000) dollars policy limit BI by disease; and, one million ($ 1,000,000) dollars each employee BI by disease.

3. Professional Liability Insurance Policy ("PL"). This policy shall cover damages, liabilities, and costs incurred as a result of Consultant's professional errors and omissions or malpractice. This policy shall include a coverage limit of at least one million ($ 1,000,000) dollars per claim, including the annual aggregate for all claims. Consultant shall notify the County of any annual aggregate is eroded by more than seventy-five (75%) percent in any given year.

19. Deductibles and Self-Insurance Retentions. Any deductibles and/or self-insured retentions which apply to any of the insurance policies referred to above shall be declared in writing by Consultant and approved by the County before work is begun pursuant to this Agreement. At the option of the County, Consultant shall either reduce or eliminate such deductibles or self-insured retentions as respect the County, it officers, employees, volunteers and agents, or shall provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and/or defense expenses.

20. Endorsements. All of the following clauses and endorsements, or similar provisions, are required to be made a part of insurance policies indicated in the parentheses below:

a. A "Cross Liability", "Severality of Interest", or "Separation of Insureds" clause (CGL & BAL);

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b. The County of San Luis Obispo, its officers, employees, volunteers and agents are hereby added as additional insured with respect to all liabilities arising out of Consultant's performance of work under this Agreement (CGL & BAL);

c. If the insurance policy covers an "accident" basis, it must be changed to "occurrence" (CGL & BAL);

d. This policy shall be considered primary insurance with respect to any other valid and collectible insurance County may possess, including any self-insured retention County may have, and any other insurance County does possess shall be considered excess insurance only and shall not be called upon to contribute to this insurance (CGL, BAL & PL);

e. No cancellation or non-renewal of this policy, or reduction of coverage afforded under the policy, shall be effective until written notice has been given at least thirty (30) days prior to the effective date of such deduction or cancellation to County at the address set forth below (CGL, BAL, WC/EL & PL);

f. Consultant and its insurers shall agree to waive all rights of subrogation against the County, its officers, employees**,** volunteers and agents for any loss arising under this Agreement (CGL); and

g. Deductibles and self-insured retentions must be declared (All Policies).

21. Absence of Insurance Coverage. County may direct Consultant to immediately cease all activities with respect to this Agreement and may terminate this Agreement if it determines that Consultant fails to carry, in full force and effect, all insurance policies with coverages at or above the limits specified in this Agreement.

22. Proof of Insurance Coverage and Coverage Verification. Prior to commencement of work under this Agreement, and annually thereafter for the term of this Agreement, Consultant or each of Consultant's insurance brokers or companies, shall provide County a current copy of a Certificate of Insurance, on an Accord or similar form, which includes complete policy coverage verification, as evidence of the stipulated coverages. All of the insurance companies providing insurance for Consultant shall have, and provide evidence of, a Best Rating Service rate of A VI or above. The Certificate of Insurance and coverage verification and all other notices shall be mailed to County address below in paragraph 24, Notices **.**

23. Records.

a. Consultant shall maintain books, papers, accounting records, and other relevant documents (hereinafter "Records") pertaining to the cost and performance of this Agreement. Consultant shall retain said Records and make them available for examination and audit by the State Auditor General, the County, the State, or the Federal Government, or their duly authorized representatives, during the contract term, and for a period of four (4) years after the date of final payment under this Agreement (Government Code Section 10532).

b. Consultant shall assure the confidentiality of any records that are required by law to be so maintained.

c. Consultant shall prepare and forward such additional or supplementary records as County may reasonably request.

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24. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to County at:

County of San Luis Obispo, Department of Public Works
Room 207 County Government Center
San Luis Obispo, California 93408
Attention: County Right of Way Agent

to Consultant at:

_____
_____
_____
_____

25. Copyright. Any report, maps, documents or other materials produced in whole or part under this Contract shall be the property of County and none shall be subject to an application for copyright by or on behalf of Consultant.

26. Findings Confidential. No reports, maps, information, documents, or any other materials given to or prepared by Consultant under this Contract shall be made available to any individual or organization (other than County's contract legal counsel) by Consultant without the prior written approval of County.

27. Equipment and Supplies. Consultant will provide all necessary equipment and supplies in order to carry out the terms of this Contract.

IN WITNESS WHEREOF, County and Consultant have executed this Contract on the day and year first herein above set forth.

CONSULTANT:

By:_____

Name: _____

Title: _____

Firm: _____

COUNTY OF SAN LUIS OBISPO

By:_____

Chairperson of the Board of Supervisors

ATTEST:

Julie L Rodewald, County Clerk-Recorder
And Ex-Officio Clerk of the Board of Supervisors

By: _____

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Deputy Clerk

APPROVED AS TO FORM
AND LEGAL EFFECT

WARREN R. JENSEN
County Counsel

By:_____ Dated:_____
Deputy County Counsel

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COUNTY OF SAN LUIS OBISPO - DEPARTMENT OF PUBLIC WORKS

APPRAISAL CHECKLIST (12/2009) EXHIBIT "C"

Project Name_____ Project #_____ Parcel #_____

Appraiser _____ Date of Appraisal _____

Property Owner _____ Property Type _____

Acquisition: Full Partial Fair Market Value _____

Note: This is a checklist of items required for presence, absence, or applicability of these items. However, additional comments are included as indicated at bottom or on reverse.

1. Statement of Purpose - Rights Appraised (Incl Frwy Access Rights if any)	Yes ___ No ___ N/A ___ *
2. Notice to Owner of right to meet with Appraiser	Yes ___ No ___ N/A ___ *
3. Title VI Information	Yes ___ No ___ N/A ___ *
4. Location of Realty	Yes ___ No ___ N/A ___ *
5. Certificate of Appraiser	Yes ___ No ___ N/A ___ *
6. Legal Description	Yes ___ No ___ N/A ___ *
7. Transfers of subject Within Past 5 Years – "Sales Data Page"	Yes ___ No ___ N/A ___ *
8. Area Trend	Yes ___ No ___ N/A ___ *
9. Description of Realty Prior to Acquisition - Larger Parcel	Yes ___ No ___ N/A ___ *
a. Zoning	Yes ___ No ___ N/A ___ *
b. Land	Yes ___ No ___ N/A ___ *
c. Encumbrances Impacting Value	Yes ___ No ___ N/A ___ *
d. Improvements	Yes ___ No ___ N/A ___ *
e. Items Pertaining to Realty (F&E, etc)	Yes ___ No ___ N/A ___ *
f. Hazardous Waste/Materials Identified	Yes ___ No ___ N/A ___ *
10. Highest and Best Use Before Acquisition	Yes ___ No ___ N/A ___ *
11. Valuation of Whole **Before** Acquisition	Yes ___ No ___ N/A ___ *
a. Sales Comparison Approach	Yes ___ No ___ N/A ___ *
b. Replacement Cost Less Depreciation Approach	Yes ___ No ___ N/A ___ *
c. Income Approach	Yes ___ No ___ N/A ___ *
d. Project Influence	Yes ___ No ___ N/A ___ *
e. Items Pertaining to Realty (F&E, etc)	Yes ___ No ___ N/A ___ *
f. Hazardous Waste/Materials Identified	Yes ___ No ___ N/A ___ *
12. Valuing Outdoor Advertising Structures (if any)	Yes ___ No ___ N/A ___ *
13. Correlation of **Before** Values (under pertinent approach(es))	Yes ___ No ___ N/A ___ *
14. Description of Realty **After** the Acquisition (Remainder)	Yes ___ No ___ N/A ___ *
15. Highest and Best Use of Remaining Realty	Yes ___ No ___ N/A ___ *
16. Valuation After the Acquisition (Access Rights?)	Yes ___ No ___ N/A ___ *
a. Sales Comparison Approach	Yes ___ No ___ N/A ___ *
b. Cost Approach	Yes ___ No ___ N/A ___ *
c. Income Approach	Yes ___ No ___ N/A ___ *
d. Items Pertaining to Realty	Yes ___ No ___ N/A ___ *
17. Correlation of Remainder **After** Values (under pertinent approach(es))	Yes ___ No ___ N/A ___ *
18. Severance Damage Analysis	Yes ___ No ___ N/A ___ *
19. Benefits Analysis	Yes ___ No ___ N/A ___ *
20. Summary of Damages less Benefits	Yes ___ No ___ N/A ___ *
18. Estimate of Total Compensation	Yes ___ No ___ N/A ___ *
19. Allocation of Compensation - R/W vs. Surplus/Uneconomic Remnant	Yes ___ No ___ N/A ___ *
20. Conclusion Appropriately Supported	Yes ___ No ___ N/A ___ *

* Comments _____

* Comments (continued)