

**COUNTY OF VENTURA
PUBLIC WORKS AGENCY
CONSULTANT'S GUIDE
TO
VENTURA COUNTY PROCEDURES**



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NOTICE TO ARCHITECTS

Public Contract Code, 20103.6 requires local agencies to notify architects, in advance of requesting proposals for a specific project, of any contract provision that would require the contracting architect to indemnify and hold harmless the local agency against any and all liability, whether or not caused by the activity of the contracting architect.

The County of Ventura uses standard contract forms ES-150 and ES-151 (see Appendix 3 of the Consultant's Guide to Ventura County Procedures) that include indemnity and hold harmless clauses; however such clauses only apply to claims and liabilities that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of consultant, in accordance with Civil Code section 2782.8. Form ES-150 also contains a clause that makes the consultant responsible for certain costs due to consultant's errors or omissions.

The provisions of the County's standard contract form therefore do not fall under PCC, 20103.6.

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CONSULTANT'S GUIDE TO VENTURA COUNTY PROCEDURES

1.0 GENERAL

1.1 INTRODUCTION

The intent of this Guide is to provide information to prospective and engaged Consultants that explains the application of the Board adopted policy on the selection, negotiation, contract terms and performance of consulting services contracts. The contents of the Guide cannot change the adopted policy but may provide expanded procedures used to implement the policy.

This guide is made a part of Consultant's contract by reference, and:

- a. Provides information for Consultants on the special requirements of Ventura County.
- b. Sets certain standards for performance by Consultant.

No attempt has been made to include all of the information required for performing services that are common in the professions. While some common information is included, the main items included are those where the Consultant's services or practices may be required to differ in some way from those normally performed for other clients.

The term "Agency" is used to denote the owner of the work to be constructed both herein and in contract documents. "Agency" may be the County of Ventura, one of the special districts for which County staff provides services or, in certain cases, another entity with which the County has contracted to perform services.

The term "Board" is used to mean the Ventura County Board of Supervisors, which may be acting as the Board of a Board governed special district.

The term "County" is used herein when discussing general policies.

The term "staff" is used to mean County staff unless otherwise noted.

1.2 USE AND SELECTION OF CONSULTANTS

The use of professional consultants is authorized by Government Code 4525. The Board has adopted resolutions delegating certain authority on contracting for professional services contracts and providing generally for procedures for selection and contracting with consultants. The text of the resolution is contained in Appendix 1.

1.2.1 Use of Consultants

Consultants are used whenever the County staff cannot do the work due to one or more of the following reasons:

- (1) Time constraints on project that cannot be met by staff.
- (2) Lack of expertise by any staff professional in a field.
- (3) Lack of specialized equipment necessary to perform a project requirement.
- (4) Shortage of staff.

The use of consultants for work administered by the Public Works Agency (PWA) varies with the mission and staffing of each of its five departments. Each department is headed by a Department Director who is a Deputy of the Director of Public Works Agency. The table in Appendix 4 shows selected information about each as it relates to the use of consultants and contracting with consultants.

1.2.2 Selection of Consultants

1.2.2.1 Annual Professional Consulting Services Contracts

Each fiscal year, the County enters into consulting services contracts on an annual basis with a selected group of consultants in a variety of disciplines for which multiple use of services are expected during the ensuing year. The limitations on the uses of the annual contracts are shown in Appendix 1. Disciplines which are frequently needed include:

- Map Checking
- Quality Control and Testing
- Photogrammetric
- Plan Checking
- Environmental Investigation and Monitoring

Selection of consultants for annual contracts is based on interviews, performance on past County work, work submitted to County agencies for review or on the recommendation of others for whom work has been performed.

Annual contracts do not guarantee that any work orders will be issued to the consultant during the year, nor do they require that the consultant accept any assignment offered. The contracts only set up the terms under which work will be done and the unit prices which will be paid. Individual work orders define scope, time for completion and maximum fees for the work order.

The selection of a particular consultant to whom a Work Order will be issued for a particular task will be made as follows:

- (1) For map checking and plan checking contracts, selection is on a rotational basis except where a conflict of interest might occur or where work on an adjacent map or another part of the same group of tracts makes the use of the same consultant more beneficial.
- (2) For photogrammetric services contracts, price quotations are solicited from each of the consultants for those items of cost that are not fixed by the original contract terms. The lowest price for the entire work will define who receives the Work Order. If all work is defined by unit prices, the prices are computed by the Agency and only the lowest price consultant contacted.
- (3) For all other disciplines, the particular consultant is selected by the Agency's Project Manager (PM) subject to the approval of the Director of Public Works. Rotation, where feasible, is encouraged.

1.2.2.2 Contracts for Individual Projects

For most project design work, and where annual contracts are not available or their use is not allowed or is inappropriate, consultant selection will be made for the individual project in the following manner.

The PM will review the federal 330 forms submitted by Consultants with staffed offices located in Ventura County and list a group that appear to be qualified and who indicate, when contacted, that they are interested. Out-of-County Consultants may be included when qualified local Consultants are unavailable, where a single apparently qualified local consultant needs to be compared with others during the interview process, where local consultants cannot meet the required project schedule or where required by a grant agreement. The PM's list is subject to approval or modification by the cognizant Department Director (Public Works Agency).

Each of the Consultants on the approved list will be interviewed by a Selection Committee. The composition of the Selection Committee (which will later be the Negotiating Committee) will be generally as follows:

PM

PWA Staff Specialist in discipline being selected, as applicable

Representative of Client agency on projects for other agencies

Capital Projects Coordinator or Budget Analyst on projects for other agencies is invited but not required to attend.

After interview, references may be contacted, and then the committee prepares an internal memorandum ranking the Consultants. The cognizant Department Director (Public Works Agency) reviews the memorandum and may delete any name on the list. After approval, all consultants interviewed will be notified of the selection of the top name on the list.

For small projects, Consultants may be chosen from a list of consultants previously interviewed and ranked for other projects.

The selected consultant will be requested to meet with the PM (and in some cases other staff members) to establish a scope of work and services that must be approved by a Department Director prior to any fee proposal being made.

1.3 FEES FOR CONSULTANTS

Fees for consulting services will be based on negotiated estimates of actual costs (including reasonable profit) of the Consultant doing the work required, arrived at in the following manner:

- (1) After the scope of work and services is approved as described above, the PM will request the Consultant to make a proposal for the work covered by the scope, including a breakdown of the number of hours of labor of each category of personnel working on the project (including sub-consultants) and indicating the estimated fees based on these hours and any other costs, with a lump sum or guaranteed maximum fee for which he will do the job in accordance with the established scope. The spread between the estimated fees and the guaranteed maximum or lump sum fee will vary depending upon the uncertainties involved with the project.
- (2) Prior to the time that the Consultant submits his proposal, the PM will prepare an estimate of hours which he believes will be necessary to perform the services requested and furnish this to the Chair of the Negotiating Committee.

1.3 FEES FOR CONSULTANTS (Continued)

- (3) When the Consultant submits its proposal to the Chair of the Negotiating Committee (NOT to the PM), it will be compared with the PM's estimate of hours. The Consultant will be requested to meet with the PM to discuss any differences and attempt to resolve the fee. Lacking an agreement in those discussions, a negotiating session will be held between the Consultant and the Negotiating Committee (same members as the Selection Committee) .
- (4) If no resolution of the fee can be made between the Negotiating Committee and Consultant, the next ranking Consultant on the selection list will be invited to submit a proposal and the same procedure will be followed. A Consultant, with whom negotiations have been broken off, will not be further considered for the current project.
- (5) When a fee has been resolved with the Consultant, a contract will be prepared by the Public Works Agency, signed by the Consultant and submitted to the Board of Supervisors for their approval of the fee and the contract, or to a PWA manager designated as an Ex-officio Deputy Purchasing Agent if the total fee is within the Purchasing Agent authority (currently \$100,000).
- (6) On annual contracts, fees will be based on the rates quoted in the contract with a maximum as negotiated for the individual work order. No fees will be paid to a consultant for performing work under an annual contract unless an authorizing work order has been issued.

1.4 STANDARD FORM OF CONSULTANT CONTRACT

Standard contract forms and templates are shown in Appendix 3, together with outlines of typical exhibits for engineering and architectural projects. These forms have been approved by County Counsel. Any change in the forms, except as indicated in the notes, must be approved by County Counsel.

Exhibits, specific to the project, are added to the contracts. Exhibit A specifies the scope of services. Exhibit B specifies the time schedule for performance. Exhibit C specifies the fees.

The templates for annual contracts have similar general requirements with additions specific to annual contracts.

Insurance coverage must be considered during scope and fee negotiations. Standard general liability insurance coverage is \$1,000,000 per occurrence, \$2,000,000 in general aggregate, unless other specific arrangements are made prior to entering into the contract. Insurance coverage types and levels are particularly important when Consultant is to perform field work such as surveying, geotechnical investigations or inspection.

1.5 DEFINITIONS OF PHASES USED IN CONTRACTS

Definitions of phases used in contracts vary with the type of project. Projects are generally divided into three types: linear projects including roads, flood control channels and pipelines; area projects which include parks, parking lots, airports, harbors and dams; and architectural projects including new and remodeled buildings. As the names used for different phases of project work do not have universally accepted meanings, it is important that the phases be defined in the contract exhibits, particularly indicating the tasks that are included in each phase. As this guide is made a part of the contract by reference, the phase definitions contained below apply unless modified.

1.5.1 Schematic Design (or 30% submittal)

The functional features of project shown on a drawing accompanied by a preliminary estimate of cost and a report discussing alternatives considered, economic analysis, selected alternative, materials and unusual problems. Substantial changes may be required after review of this stage. Drawings should include:

- (1) For linear projects:
 - (a) General route in plan.
 - (b) Controlling elevations and ability to meet these.
 - (c) Approximate (R/W) lines.
- (2) For area projects:
 - (a) Utilization of site.
 - (b) Major project features to meet functional and aesthetic requirements.
- (3) For architectural projects:
 - (a) Utilization of site.
 - (b) Plan of each floor of buildings, showing general arrangement of rooms and access to meet functional and code requirements.
 - (c) Elevation views indicating general style.
 - (d) HVAC and electrical space requirements identified, together with any unusual requirements.
 - (e) Economic and code selection of structural system and materials.

1.5.2 Design Development (or 70% submittal)

The final configuration of the project is shown on the drawings but details and notes are not completed. Draft specifications are prepared. Preliminary cost estimate is updated. Notes and details are not completed. Minor changes may be required following review of this stage of features not identified in the schematic design submittals. Drawings include the following:

- (1) For linear projects:
 - (a) Final plan and profile delineated.
 - (b) Final R/W limits delineated.
 - (c) Drainage fully delineated.
 - (d) Structures designed.
- (2) For area and architectural projects:
 - (a) All plan sheets including HVAC, structural, electrical and landscaping completely delineated, but not all notes completed.
 - (b) Some minor adjustments in layout and location of features, not fixed during the Schematic design, may be needed.

1.5.3 90% Submittal Phase.

Submittal of substantially completed construction documents for review by Agency staff is sometimes specified as a 90% submittal phase.

1.5.4 Construction Documents Completed

- (1) Plans and specifications fully completed and independently checked including cross-references, compatibility with specifications and compatibility between different parts of the plans.
- (2) Proposal form complete; cost estimate complete; phasing plans and detour plans, if required, complete.
- (3) Demolition plans, if required, complete.
- (4) Existing utility interferences and points of connection verified.
- (5) Documents ready to be reproduced for bidding.

1.5.5 Bidding Phase

From the time Construction Document phase is completed until Notice to Proceed is issued to the successful bidder. Consultant's involvement during this phase is generally limited to answering the PM's questions and preparing addenda resulting from errors, omissions, or conflicts.

1.5.6 Construction Phase

From the time Notice to Proceed is issued until acceptance of the project and final payment to the construction contractor is made. Consultant's involvement during this phase is generally limited to answering the PM's questions and preparing revised drawings and specifications made necessary by errors, omissions, or conflicts. In some cases, Consultant will be retained to review all or selected shop drawings and submissions and to make periodic and final field visits to the construction site. Consultant may also be retained to provide full inspection of the project when Agency staff cannot do so due to workload demands or lack of specialized knowledge of unusual construction techniques.

1.5.7 Guarantee Phase

The year following the completion of the Construction Phase or such longer time specified in the special provisions for certain items. Consultant is generally not involved during this phase except where errors or omissions not discovered during construction require plans and specifications for corrective work.

1.6 CONTRACT

1.6.1 Contract Preparation and Execution

Following agreement on scope, timing and fee, a written contract is prepared by the PM and submitted for approval by the Director of Engineering Services Department, who may execute the contract if within the delegated authority or direct that it be presented to the Board for approval.

1.6.2 Contract Changes

No one has authority to orally modify any contract or annual contract Work Order.

No change in the scope of work, time of performance or Consultant's fee established by an executed contract is valid unless in writing and executed by an Agency official having authority to execute contracts and signed by Consultant.

Annual contract Work Orders cannot be modified, but may be superseded, supplemented by a new work order, or canceled prior to Consultant commencing or completing the work. See also section 2.4.

1.7 PAYMENT

To receive payment of fees due, it is necessary for the Consultant to sign a Public Works Agency Consultant Services Invoice form and submit it with his bill. The Contracts Section of the Engineering Services Department will assist the Consultant in the preparation of the invoice upon request. A copy of this invoice and the instructions for using this form are in APPENDIX A3.2-3.

Invoices usually require about 20 days for processing. If payments are delayed more than this, the Consultant should contact the ESD-Contracts Technician. If further delays of more than 10 days occur, Consultant should contact the Director of Engineering Services Department.

All billings under consulting contracts, where payment is based on an hourly or daily rate, must include backup sheets which include the following data:

- (1) Name of each employee and principal.
- (2) Classification of each employee.
- (3) Hourly rate charged for each employee and principal.
- (4) Each date worked by employees and principal on project.
- (5) Number of hours worked on project on each date by each employee and principal.

If the contract provides for payment for certain materials or services, these must be itemized in the billing and receipts submitted for any reimbursable expenses.

Note: If travel is authorized in writing in advance by the AGENCY, reimbursement for business travel expenses shall be for the specific position descriptions so identified in the Fee Schedule in the contract or work order. The AGENCY shall reimburse CONSULTANT for transportation, lodging, and meal expenses that are consistent with the policies and amounts approved for County employees as defined by policy number Chapter VII(C)-1, Reimbursement of Employees County Business Expenses, in the County's Administrative Policy Manual (latest edition).

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2.0 CONSULTANT'S SERVICES & STATUS

2.1 SERVICES

The Consultant is retained to perform specialized design and/or other services. He is expected to use professional skill in providing these services in a prompt and complete manner. He is expected to do all the professional work on the project except as otherwise provided.

2.1.1 Design Services

This includes all assignments to prepare construction contract documents for a project, and may include the necessary work of one or more subconsultants and/or the coordination of work of other consultants contracting directly with the Agency.

2.1.1.1 Design

Plans and specifications are to be the result of professional design (not draftsman design). Minimal use should be made of "as directed in the field". See Section 3 and Appendix 2.

2.1.1.2 Checking of Documents

As part of all professional services contracts for design of projects, the Consultant is expected to perform rigorous checking of all documents by a different member of the professional staff or by a consultant retained by the Consultant. While each subconsultant should have his work independently checked by a professional familiar with the particular specialty, the prime consultant is responsible to see that the work of all subconsultants fits together and is compatible with the rest of the work. This check shall be performed before submittal of documents to staff for review.

It shall also be performed after changes are made. Checking must include the interrelation of all documents including plans, specifications, standard plans, standard specifications, referenced specifications, codes and permits. A systematic checking procedure, such as that suggested by the "Redicheck" method should be followed.

Addenda or change orders to correct deficiencies must not be relied on as a substitute for proper design and checking.

Review by staff, while providing comments on many aspects of the project and the documents, is not a complete checking of the documents and does not relieve the Consultant of any of his responsibilities.

2.1.2 Non-Design Services

These include assignments for economic feasibility studies, surveying, photogrammetry, appraisals, geotechnical investigations, environmental impact studies and reports, materials testing, inspection, project management, and other Agency required services.

2.1.2.1 Professional Standards

All work required by the contract shall be performed to the standards of the profession unless otherwise specifically stated in the contract. Desires of individual Agency staff members which are not included as constraints in Consultant's contract must not be allowed to distort Consultant's professional advice.

2.1.2.2 Reports

Reports should clearly state:

Recommendations

All factors taken into account in making recommendations.

All sources of information used in making decisions

A short executive summary.

A separate document may be used to include voluminous data gathered as part of the work.

2.2 STATUS

Consultant is not an employee or agent of the County or Agency, and, therefore cannot:

- (1) Issue contract change orders.
- (2) Issue addenda to contracts being bid.
- (3) Answer bidding questions by construction contractors.
- (4) Give directions or answer questions, orally or in writing, directly to construction contractors unless specifically authorized to do so by the Consultant's contract.
- (5) Not bind the Agency in any way to third parties.

Consultant may be required to prepare documents or provide information for items (1) through (4) above for issuance by the Agency

The Project Manager is the Consultant's primary contact with the Agency. For the role of other Agency personnel see Appendix 4.

2.3 PROCEDURES AND LIAISON

- (1) All contacts with the County should be made through the Project Manager assigned by the County, except such routine contacts made at public counters.
- (2) Consultant shall assign a responsible professional to coordinate with the County's Project Manager. The Project Manager is directed by the County to make all contacts with the Consultant through such designated professional or with a Principal of the Consultant's firm.
- (3) All design criteria and requirements by the County will be furnished to the Consultant either as part of the contract or separately in writing.
- (4) The results of all conferences between the Consultant and the County should be promptly reduced to writing and furnished to all parties to the conference.
- (5) Changes in the contract can only be made in writing by the Director of Public Works or the Board of Supervisors. Annual Contract work orders may not be changed. A new work order may be issued superseding or supplementing the original work order if necessary. The Consultant is responsible for promptly notifying the County in writing if he feels any request is beyond the scope of the contract or work order and shall not proceed with such work until a modification is issued, a new work order issued, or a written determination is made that such work is within the scope of the contract or work order.
- (6) For design contracts, the Consultant is responsible for the design of the project in accordance with the established criteria.
- (7) All documents furnished to the County shall be signed by the Consultant. See **Supplement 2-1** on page 2-4 for advice from the Professional Engineer's Board on the signing plans where more than one design professional is involved.
- (8) All questions concerning payments should be referred to the Engineering Services Department - Contracts Technician or lacking resolution, to the Deputy Director of Public Works - Engineering Services.
- (9) On completion of the project, the Consultant must furnish to the County all documents required by the contract. These will usually include originals of all plans, specifications and reports, and originals or copies of all calculations, sketches, correspondence not directed to the County or from the County, photographs, models, displays, renderings, etc.

2.4 CHANGES IN CONSULTANT'S CONTRACT

Change in scope, time for performance, function or cost of a planned project shall be made only upon written authorization from the County transmitted to the Consultant by the Project Manager.

If the Consultant believes that a requested change is outside the scope of his contract with the Agency, he should inform the Project Manager immediately in writing. If the Project Manager agrees that there is a change in scope, a formal Modification to the contract will be negotiated. Lacking a formal Modification, the Consultant's fee will be paid as provided in the contract.

2.5 DISPUTES

Unresolved disputes between the County's Project Manager and the Consultant's designated representative should be resolved as follows:

- (1) By discussion between the County's Project Manager and the Principal of the Consultant's firm.
- (2) For disputes concerning contract terms and changes in scope, by discussion with the Deputy Director of Public Works - Engineering Services.
- (3) For disputes concerning other matters, by discussion with the Project Manager's supervising Deputy Director of Public Works.
- (4) For disputes that cannot be resolved by any of the above, by discussion between the Director of Public Works and a Principal of the Consultant's firm.
- (5) As provided for in the Consulting Services Contract.

Stamping and Signing Documents Prepared by Others

*by Gregg E. Brandow, P. E., Member, Structural Engineering Technical
Advisory Committee*

A modern engineering project may see the Engineer of Record (EOR) performing different roles in the design, review, and approval of structures and components of structures. If the EOR designs and develops the construction documents for a project, then he/she is clearly in "responsible charge" and he/she would sign and stamp the calculations and drawings. If a project includes components designed by other engineers who are not under the supervision of the EOR, then signing and stamping these calculations and drawings becomes confusing.

The Problem

The confusion is between the EOR's responsibility for the entire project and the component design engineer's responsibility to sign and stamp his/her engineering work for specific elements of the project. Three scenarios have been presented to the Board in regard to these issues:

1. A project has wood floor joists and glued laminated arches which are provided by a vendor, including drawings and calculations signed and sealed by a registered California civil engineer on the vendor's staff. The public agency demands that the EOR sign and seal the drawings as part of the submittal for permit. The EOR felt that he/she was not in responsible charge of the calculations and drawings and thus should not sign them.
2. A skylight for a hospital project is a standard design provided by an East coast vendor who does the engineering in-house and has a California registered civil engineer on staff do the design. The Office of Statewide Health Planning and Development requires that a registered California structural engineer sign and seal the calculations and drawings. The EOR is a registered structural engineer but was not in responsible charge of the skylight design.
3. A piece of building equipment is required by the public agency to have a seismic analysis including anchorage to the building, and the calculations and drawings must be signed and sealed by a registered California engineer. The manufacturer hires the EOR for the building and provides to him/her a set of calculations and drawings which do not have a stamp of any engineer. The EOR is asked to review all aspects of the design and make modifications to the calculations and drawings as necessary. The EOR was not in responsible charge of the equipment design but now is asked to take full responsibility.

SUPPLEMENT 2-1 (Continued)

The Law

All engineering work must be signed and stamped by the engineer who is in responsible charge of the work. The California Professional Engineers Act clearly states that:

All civil engineering plans, specifications, and reports shall be prepared by a registered civil engineer or by a subordinate under his or her direction, and shall be signed (and stamped or sealed) by him or her to indicate his or her responsibility for them.

The act further states:

The phrase "responsible charge of work" means the independent control and direction, by the use of initiative, skill, and independent judgment, of the investigation or design of professional engineering work or the direct engineering control of such projects.

The Board Rules (404.1) further clarify the definition of responsible charge by stating that it: directly relates to the span or degree of control a professional engineer is required to maintain while exercising independent control and direction of professional engineering work, and to the engineering decisions which can be made only by a professional engineer.

Engineering decision's including the development of design criteria, performing calculations, choosing components and details are part of the role of responsible charge, as-well as reviewing another engineer's work for conformance to the design criteria.

The Solution

The provisions of the Professional Engineers Act and the required sealing/signing of engineering documents for the design and/or build of components is an issue that worries both the Engineer of Record for the project and those companies that design and/or build components that become part of a completed engineered project. The kind of elements that are commonly design/build components are wood joists, steel joists, window wall systems, window wall washing systems, stairs, skylights, equipment assemblies, etc. Each of these components is engineered, and structural drawings and/or shop drawings are produced. The engineer of these components may or may not be registered in California. The EOR for the project does not design these components, but does have the responsibility to provide all appropriate design criteria needed for the design, such as design loads and the requirements for structural configuration. The EOR also has the responsibility to review the design of the components for conformance with the design requirements for the project and to coordinate all the engineering aspects of the project including the anchorage of these component

The engineer for the building component is in responsible charge of the engineering of the component for the specific project and thus is required to seal and sign the calculations and drawings. The component engineer should be very clear on all documents that he/she is not the EOR for the project and that his/her scope is limited to the components only and not the complete structure or the coordination of the components within the structure. Since the component documents are for a specific project, the seal must be from a professional engineer registered in the state where the project is being constructed. For projects constructed California, the engineer must be registered by the Board.

SUPPLEMENT 2-1 (Continued)

The EOR for the project is in responsible charge of the entire project but has not designed certain components. The EOR cannot seal and stamp those drawings as being in responsible charge, but may be required by the local jurisdiction to seal and sign the drawings and calculations as the EOR. The only way the EOR can resolve this conflict is to note on the drawings a definition of his/her role in producing and in reviewing the documents before sealing and signing them. The notations on the documents for the first two scenarios may be as follows:

The EOR has reviewed the building components engineered by others in these calculations and drawings for conformance with the project specifications. The interface between these components and the project has been reviewed for conformance with appropriate building codes. The EOR was not in responsible charge of the design, but did provide the specifications and design criteria to which these components were designed and reviewed.

If the engineer of the components in scenario 1 or 2 is not registered as an engineer in California, then the EOR may have to review the calculations to a degree that would satisfy him/her that the engineering is complete and correct. Since the EOR's stamp and signature would then be the only one on the drawings, the perception of "in responsible charge" has increased and the definition of the EOR's role could be stated as follows:

The building component on these drawings has been engineered by others. The calculations and drawings have been reviewed and modified by the EOR for conformance with applicable building codes.

The EOR may choose to completely re-engineer the building components by producing a new independent set of calculations and/or drawings and thus be more traditionally in responsible charge of the design.

In the third scenario, the EOR has clearly taken more responsibility and thus could define his/her role as follows:

The seismic support and anchorage of the equipment described on these drawings have been engineered by the EOR for conformance with appropriate building codes. The EOR was not responsible for the equipment design.

Conclusion

There is a reluctance by engineers to see two engineers' stamps and signatures on a document because of possible confusion as to each engineer's responsibility. The solution is to clearly state the role of each engineer as to the design criteria, the design calculations and drawings, the review, and the coordination with the entire project. In this manner, the registered professional engineer retains responsibility for the work under his or her responsible charge and maintains the integrity of his/her engineer's stamp.

3.0 DESIGN PROJECT PROCEDURES

3.1 DRAWINGS & SPECIFICATIONS

See the Project Processing Procedures Manual (PPPM), Section 3 for information on preparing plans and specification to follow Agency standards.

Ventura County Standard Specifications (VCSS) must be used for all projects. VCSS includes Part 1 General Provisions and adopts Standard Specifications for Public Works Constructions (SSPWC) (The Greenbook) Parts 2 to 6 by reference with modifications. VCSS must be used on all projects.

PPPM and VCSS are available at:

<http://vcpublicworks.org/engineering-services-department/standards-and-manuals>

Computerized specification preparation may be used providing that the principles cited in PPPM are followed and the inconsistencies and duplications are edited out.

All plans and specifications must be submitted in electronic format that can be converted to PDF files for posting on Agency's web site.

3.2 SCHEDULE FOR CONSTRUCTION

The Consultant shall prepare a schedule or diagram showing the interrelation of the various parts of the work and the times required for each to support the determination of the total time to be allowed to the contractor to complete the construction of the project.

3.3 CONSTRUCTION CONTRACT BID PROCESSING

Original plans and specifications must be in the hands of the Agency's Project Manager (PM) completely signed and ready for reproduction prior to the date specified in the contract which is intended to meet the date specified as Item 1 in PPPM Table 6.3-1.

The Agency will make and sell copies of the plans and specifications to prospective bidders and others who want copies. Plans are furnished to several of the plan rooms. The Agency will also make and distribute copies for internal use and for use by the contractor.

3.4 QUESTIONS BY BIDDERS & ADDENDA

Any questions by the bidders during the bidding period shall be referred to the Engineering Services Department for an answer. An engineer from the Engineering Services Department may contact PM or Consultant for assistance in giving a reply.

Consultant shall not discuss the project directly with bidders.

Any answer to a question by bidders which is not clearly ascertainable from the contract documents shall be given only by the issuance of an addendum to all bidders. Addenda shall also be issued to make any corrections or changes in the contract documents. The addenda shall be prepared by the Consultant and shall be in accordance with PPPM Section 6.3.1.3 and PPPM Figure 6.3-1. In addition, the Consultant shall sign the addendum just above the 'Acknowledgement' paragraph, with Registration or License Number.

3.5 BID OPENING, ABSTRACTS & REVIEW

Bids are opened, reviewed and abstracted by Agency staff. Should the low bid vary widely from the Consultant's estimate, Consultant may be consulted and asked to review the estimate and the bids. Consultant's contract may provide for redesign without additional compensation if the low bid is above the target estimate in Consultant's contract.

3.6 SHOP DRAWINGS AND MATERIALS SUBMITTALS

All submittals by the Contractor must be to the PM, who will log them, and if appropriate, send them to the Consultant for review. After Consultant's review, all material shall be returned to the PM who will log in the material and distribute it as appropriate. It is intended that no direct contact be made between the Consultant and the Contractor except in the presence or with the approval of the PM.

Submittals and actions include:

- (1) Shop drawings and other submittals for review and approval by the Consultant.
- (2) Unacceptable shop drawings or submittals are to be returned for correction and resubmittal.
- (3) Acceptable shop drawings or submittals will be indicated by Consultant's signature thereto and return of the drawings or other submittals.
- (4) Consultant shall act promptly in reviewing submittals so as to not delay the Contractor as such delays may result in claims against the Agency. The specifications imply that no more than 30 days will be required for review of submittals and this includes Agency's processing time. The Agency may seek indemnification from the Consultant if a claim arises out of the Consultant's failure to timely review submittals.

Close rapport must be maintained between the Consultant and PM regarding unsatisfactory shop drawing submittals which might conceivably delay the project.

Consultant shall not use shop drawing approval to change the project requirements. This can only be done by written change order executed by the Agency.

3.7 CONSTRUCTION CONTRACT CHANGE ORDERS (CCO)

All changes in construction must be covered by a written and approved Change Order even though no changes in contract time or price are made. All changes in Consultant's contract must be covered by a modification even though there is no change in fee or contract time.

3.7.1 Consultant's Action on CCOs

The Consultant should take the following actions when he discovers or is informed by the PM of the need for any change in the plans or specifications during construction:

- (1) Immediately confer with the PM as to the need for a change so work can be temporarily halted if necessary.
- (2) Prepare a written description of the change, together with any modifications of the drawings and specifications, an estimate of reasonable cost, justification for the change, and a statement as to need for changing contract time.
- (3) The change description shall be prepared by the Consultant and transmitted to the PM who will obtain a price for the change from the Contractor and prepare the standard CCO form and take the action to have it executed.
- (4) The Consultant may be asked to review the Contractor's price and make his recommendations to the PM.
- (5) Consultant shall not issue Change Orders to the Contractor. All CCOs must be prepared by the PM and issued by Director of Public Works or designated Deputy.
- (6) If Consultant believes that work requested by PM is outside the scope of the Consultant's contract, the PM shall be advised of this. If the PM agrees, a modification of the Consultant's contract will be negotiated for approval in accordance with Agency policy before Consultant begins such work.

3.7.2 Laws Affecting Change Orders

The issuance of CCOs are governed by law and delegations of authority as shown in PPM Section 7.7.2.

The following is also applicable:

- (1) Items of work constituting a single related change may not be separated into two or more CCOs to attempt to get around the stated monetary limitations. In a like manner, unrelated additive and deductive changes may not be grouped into a single CCO to avoid the monetary limitations. The deletion of an item and its replacement with another similar item of the same function can be grouped together in a CCO to provide no cost or a smaller change.
- (2) A Final Adjustment of Quantities (FAQ) is used to adjust payment for unit price items if no change in the plans or specifications is involved, i.e., the quantity bid or specified in the bid or CCO is not equal to the quantity required by the plans and specifications or CCO. The Director of Public Works may approve an FAQ for unit price items.

3.7.3 Time Required to Approve Change Orders

After preparation of the Change Order and agreement with the Contractor, Change Orders which may be approved by the Director usually take about three working days for approval. Those which must go to the Board normally take four weeks.

3.8 SERVICES PROVIDED BY COUNTY

The Agency will normally provide the following services unless the contrary is specifically agreed to:

- (1) Land survey including property line determinations, setting basic control points and topography.
- (2) Soils investigations required for foundation design, but not the structural design of the foundation.
- (3) Reproduction of plans and specifications for Agency review, bidding and construction, but not for Consultant's own use.
- (4) Detailed inspection during construction. However, Consultant is required to visit the site for the preconstruction conference, when the PM needs advice on the Project, and for the final inspection.
- (5) Administration of construction contract and the making of payments to the contractor.
- (6) Arrangements for obtaining approval and permits from governmental agencies but the Consultant is required to obtain information necessary to prepare the documents, attend conferences to facilitate approval and make any required modifications.
- (7) Advertisement for bids, opening and analyzing of bids and award of contract, but Consultant may be required to review bids and his cost estimate.
- (8) Utility surveys and information as to location.
- (9) Right-of-way acquisitions.
- (10) Prints of existing plans on file at the Public Services Counter required for the project.

Services such as surveys and geotechnics may require detailed requests from the Consultant. These requests must be adequate for the project but not excessive. They must be made far enough in advance to allow scheduling and timely completion without delaying the project.

3.9 SPECIAL CONSIDERATIONS

3.9.1 Rights of Way & Utility Relocation

Before a project can be advertised for bidding, it is required that the Real Estate Division issue a certificate indicating that the right-of-way necessary for the construction of the project is either (a) owned by the Agency, or (b) available to the Agency by easement, permit or other arrangement; and stating any agreements which may affect the design or construction. The certificate will also state if any utility lines are in the right-of-way which must be relocated or protected. Although the PM will obtain the clearance, the Consultant must furnish the PM with such drawings, sketches and descriptive data as necessary. The Consultant should be aware that some clearances normally require months to obtain. Early action is, therefore, essential.

Also required is a utility clearance from the Real Estate Division. The PM will arrange for these.

3.9.2 Environmental Documents

An Environmental Impact Report or Negative Declaration will be prepared for the project by the Agency unless the project is categorically exempt. The Consultant shall furnish information on the project design as needed.

3.9.3 Use of Trade Name

In addition to the requirements given in the PPPM, Consultant should be aware of Public Contract Code Section 3400 which states in part:

(b) No agency of the state, nor any political subdivision, municipal corporation, or district, nor any public officer or person charged with the letting of contracts for the construction, alteration, or repair of public works, shall draft or cause to be drafted specifications for bids, in connection with the construction, alteration, or repair of public works,

(1) in a manner that limits the bidding, directly or indirectly, to any one specific concern, or

(2) calling for a designated material, product, thing, or service by specific brand or trade name unless the specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service. In applying this section, the specifying agency shall, if aware of an equal product manufactured in this state, name that product in the specification. Specifications shall provide a period of time prior to or after, or prior to and after, the award of the contract for submission of data substantiating a request for a substitution of "an equal" item. If no time period is specified, data may be submitted any time within 35 days after the award of the contract.

(c) Subdivision (b) is not applicable if the awarding authority, or its designee, makes a finding that is described in the invitation for bids or request for proposals that a particular material, product, thing, or service is designated by specific brand or trade name for any of the following purposes:

(1) In order that a field test or experiment may be made to determine the product's suitability for future use.

(2) In order to match other products in use on a particular public improvement either completed or in the course of completion.

(3) In order to obtain a necessary item that is only available from one source.

Subsections 4-1.5 of VCSS establish criteria for considering "Equals" and at the same time provide some protection to the Agency and the Consultant where the Contractor proposes alternates. Approval of "equals" is not done prior to bidding.

Where only one product can be found to perform the necessary function, the specifications shall indicate (No known equal) following the product name. The Consultant shall document for the Agency the unique properties of the specified product which distinguish it from apparently similar products. The specifications should also contain a description of these distinguishing properties.

In an existing facility, a particular product may be used where necessary to duplicate existing equipment for appearance or function. In such cases, the specifications shall contain the product name followed by (To match existing, no substitution allowed).

When two or more products are listed in the specifications, they must be equal as to desired features. Where desired features are not equal, the specifications must define the lowest quality or performance acceptable. When specific features or performance are intended to be identified by the specified product(s) which may not be present in other similar products which may be offered as an equal, it is good practice to point out those features.

VCSS 4-1.6 provides for using "equals", evaluating and approving equal products, and requirements for Contractor to provide compatibility with design.

Where the other brands specified may require redesign or revision to the plans, the consultant shall provide the Agency with documentation of the limitations on the listed brands.

If the consultant wishes to indicate "No Known Equal" to the brand name specified, he shall provide documentation with review submittals showing why similar items shown in the Sweet's file or other standard catalogs cannot fulfill the requirements of the project.

If a contractor proposes a substitute brand as an "equal" product, the consultant shall provide similar documentation if he rejects the substitute as not "equal".

No additional compensation will be paid to the consultant for compliance with these requirements, which are considered part of the basic design cost.

If additional work is required of the Consultant as a result of the contractor submitting a specified equal or substitute equal product which requires redesign work by the Consultant or the checking of redesign work prepared by a Consultant employed by the Contractor, the Consultant may be compensated for the requested extra work as provided in the Consultant's contract.

3.9.4 Physically Handicapped Access

To provide for making buildings and facilities accessible to, and usable by the physically handicapped, all construction must comply with Government Code 4450, California Building Code (CCR Title 24, Part 2 Ch 11B) and the requirements of the federal Americans with Disabilities Act, (USA Standard A117.1).

3.9.5 State/Federal Grant Requirement

On projects financed, in whole or in part, by the State or Federal Governments or other agencies, special requirements and laws may require procedures and specifications differing from those described herein. The PM will furnish the Consultant copies of manuals and directives where possible; however, the Consultant will be responsible for obtaining all information necessary for the proper completion of the contract documents and compliance with laws and procedures of the other agencies. The Consultant will also be expected to attend conferences with the other agencies as needed or requested.

The Essential Services Buildings Seismic Safety Act (Health & Safety Code 16000-16023) is applicable to any building used in whole or in part for a fire station, sheriff's offices, emergency operation center or emergency communications response center

Hospitals and detention facilities have specific State requirements. Buildings financed by State and/or Federal Aid may have special requirements and may have special specification requirements. Court facilities are subject to approval by the judges.

3.9.6 County Standard

In addition to the material contained in the PPPM, Consultant must comply with the following:

- (1) Projects at County parks, Oxnard Airport and Channel Islands Harbor must comply with the published Park, Airport and Harbor Design Criteria.
- (2) Projects that are in County road rights of way must comply with the County Road Standards and the Road Encroachment Ordinance.
- (3) Projects involving flood control or drainage must comply with the Watershed Protection District design criteria.

3.9.7 Building Projects Design Criteria

If not furnished by the PM before negotiations, the Architect should request a set of design criteria which will indicate the requirements and limitations on the design. The major items which should be covered include any special requirements for:

- (1) Type and number of personnel who will occupy building and functions to be accommodated.
- (2) Number of stories.
- (3) Floor type and finish.
- (4) Wall and ceiling material and height.
- (5) Window and door requirements.
- (6) Lighting requirements.
- (7) Air treatment for comfort.
- (8) Electrical requirements.
- (9) Landscaping.
- (10) Utilities.
- (11) Unusual floor loads, such as safes or heavy storage.
- (12) Any other special requirements.

3.9.8 Building Accessories and Furniture

Restroom dispensers, lighting fixture bulb types, and similar items where Agency must stock replaceable supplies require standardization. Within existing buildings, locks, mechanical equipment, controls and other items requiring continuing maintenance should match existing where practicable. The PM will furnish particulars.

It is the County's policy not to include movable furniture in building construction contracts. Exterior site furniture may be included.

3.9.9 Building Regulations

The Ventura County Building Code adopts most of the California Building Codes and certain Uniform Codes by reference and makes local modifications thereto. The Ventura County Air Pollution Control District also regulates certain operations and construction.

The Essential Services Buildings Seismic Safety Act (Health and Safety Code Section 16000-16023) and California Code of Regulations, Title 24, Chapter 4 contain additional requirements for Essential Services Buildings including Fire Stations and Sheriff's Offices, and provide special duties for consultants.

3.9.10 Landscape Standards

It is the policy of the County that landscaped areas require minimized water usage, both to conserve water and to reduce operating expenses. To accomplish this purpose, landscape design shall be performed in accordance with the following guidelines:

- (1) Use plant materials (trees, shrubs, ground cover and turf) recognized as low water use varieties.
- (2) Minimize the use of turf. County parks may use turf as part of their amenities to be provided for public use but low water use varieties should be specified.
- (3) Utilize low precipitation sprinkler heads located to minimize overspray into unplanted areas or areas of dissimilar water needs.
- (4) Divide sprinkler system into logical individually controlled laterals which allow selective control of irrigation for areas of dissimilar water needs such as:
 - (a) Different plant materials
 - (b) Different land slopes
 - (c) Different soil types
 - (d) Sunny versus shady areas

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BOARD'S POLICY OF NOVEMBER 3, 1998 ON PROFESSIONAL CONSULTING SERVICES

RESOLUTION ESTABLISHING POLICY ON CONTRACTING FOR PROFESSIONAL CONSULTING SERVICES

WHEREAS, the Board of Supervisors desires to establish a policy concerning contracting with professional consultants, (As used herein, 'professional consultants' shall refer to those professional consultants providing services related to public works planning, construction, alteration, repair, improvement or maintenance contracts, or to any activities for which the Chief Administrative Officer and Public Works Agency, individually, has responsibility and authority.),

NOW, THEREFORE, upon motion by Supervisor Schillo, seconded by Supervisor Long, and duly carried, be it resolved that all previously adopted resolutions concerning contracting for professional consulting services are hereby repealed. Be it further resolved that the Board of Supervisors of the County of Ventura does adopt policies and procedures for contracting with professional consultants and does direct that all contracts with such professionals be made in accordance with such policies except as otherwise approved by this Board; and does delegate to certain County officers authority, within the limitations specified, to perform specified duties concerning professional consulting service contracts.

A. Policies

1. Need for Contracting. Contract with consulting professionals only when one or more of the following situations occur:
 - a. Specialized skills, experience or ability is required, which is not possessed by County staff members available for assignment to the work.
 - b. Specialized equipment or facilities are needed which are not available for assignment to the work.
 - c. The current level of County staffing is insufficient to meet temporary increases in workload.
2. Local Preference. The use of local consultants will reduce travel and communications costs and encourage local enterprise. Therefore, in the selection of consultants, preference shall be given to consultants located in Ventura County or firms with fully staffed offices in Ventura County. This policy shall not apply where prohibited by the terms of State or Federal grants, nor where this policy would result in a lower standard of service or delay in the work.
3. Professional Attitude. Deal with all consultants in a dignified manner generally in accordance with the ethics and recommendations of their professional societies, taking into account the requirements of law and Board policy.
4. Selection of Consultants
 - a. Consultants interested in performing work for the County shall be requested to complete a form listing their qualifications and experience. These forms shall be kept on file and be reviewed when forming a list of consultants to be considered for a particular contract. The list may be reviewed and purged annually.

- b. A selection committee shall be formed to select a consultant for each contract. Depending on the size and importance of the work to be performed, the membership of the committee may vary. As a minimum, the committee shall consist of a representative of:

- Budgeting Agency Head or representative
- User Agency Head or representative
- Staff technical specialists
- Others as requested by the Board, Chief Administrative Officer (CAO) or Director of Public Works (DPW)
- Project Manager (PM)

Others shall be added to the committee with increasing job size and importance.

- c. The selection committee shall consider the firms available and prepare a list of three or more of those considered qualified for further review. This list shall be sent to the DPW or the CAO, as appropriate for review and approval.

On approval of the list by the DPW or the CAO, the consultants listed shall be interviewed by the selection committee, who shall prepare a list ranking the top three consultants based on their qualifications and suitability for the project. This list shall be sent to the DPW or CAO for review and approval.

Fee proposals generally should not be requested from the consultants until the selection has been made.

For minor projects and services to carry out general County/District functions, selection may be made as described above or may be based on the results of previous interviews and performance reports

5. Fees for Professional Services. After approval of the selected consultant, the PM will work with the consultant in preparing a scope of work. When the written scope of work is agreed upon, the consultant will be requested by the PM to submit a fee proposal to the DPW or CAO. The PM will make an independent estimate of the cost of performing the services being requested as a guide for the committee in negotiating a fee with the consultant. The consultant's proposal and the PM's estimate will be compared. If these are reasonably equivalent, no further negotiation need be undertaken. If not, the consultant should be requested to again appear for a negotiating session with the selection committee. If the consultant and the committee fail to arrive at a fee acceptable to both, negotiations shall be terminated and the second consultant on the list shall be contacted, informed of such termination and invited to submit a proposal. In no case should there be further negotiation with the first consultant.

A fee proposal may be requested and can be considered together with qualifications and other relevant factors in selection of a consultant for contracts for mapping, photogrammetry, laboratory testing of materials, drilling of test holes (not involving logging), and similar activities where the scope of work, method of performance and standards for results are precisely defined prior to selection of a consultant.

6. Contracts. Contracts shall be prepared based on the fee negotiated with the consultant selected on the form approved by County Counsel.

7. Duties & Responsibilities. In delegating authority to the Chief Administrative Officer and Director of Public Works to enter into consulting services contracts or issue annual contract work orders, limitations are placed on the delegation for the purpose of limiting expenditure of funds used for construction project planning purposes prior to the Board's indication of approval of the project. Such approval may be either a specific action concerning the project, approval of an environmental document concerning the project, or the approval of the recommended or final budget containing funding for the project with the project identified as a line item or identified by inclusion in a narrative or tabulation accompanying the budget. The splitting of the services of a consultant into multiple contracts shall not be used to avoid the limitations set herein.

A further limitation is that budgeted funds must be available to make all payments that may become due under the terms of the contract or work order

- a. Duties and responsibilities in contracting for, and administering, professional consulting services contracts, after the selection, negotiation and preparation of the contract as provided for above, shall be as set forth in 7b and 7c below, depending on the type of work and the class of contract as follows:

Class IA- Contracts for services for planning construction projects not yet approved by the Board, where the professional fee is not greater than \$35,000.

Class IB- Contracts necessary to carry out general County functions; to provide technical assistance to the County's legal counsel on matters involving ongoing or potential litigation; or to plan or manage a project approved by the Board; where the professional fee is within the limits set forth in Ventura County Ordinance # 4084, Section 3 (f) & (m), as such may be amended from time to time.

Class II - Contracts for services on an annual basis. Work to be authorized by individual work orders.

Class III- Contracts for services not falling into the above classes

- b. For Classes IA and IB:

- (1) The contract shall be executed by the Chief Administrative Officer or Director of Public Works as Deputy Purchasing Agents or by other Deputy Purchasing Agents on behalf of the County.
- (2) The Chief Administrative Officer or Director of Public Works shall administer the contract pursuant to the terms thereof and shall be authorized to approve modifications to the contract, provided that sufficient funds have been appropriated for the project to include the amount of all such modifications and that the total amount of all modifications and the original contract price does not exceed the limits specified in 7a above for Class IA or IB contracts, as applicable.
- (3) The Chief Administrative Officer and Director of Public Works, individually, shall be authorized to approve extensions of time for the completion of the performance of the contract in the event that a change in the scope of work is made or in the event of circumstances beyond the control of the consultant.

- (4) On written approval of the Chief Administrative Officer or Director of Public Works, payments pursuant to the terms of the contract shall be made to the consultant by the Auditor-Controller.
- (5) On completion of all terms of the contract, the Chief Administrative Officer or Director of Public Works shall make final acceptance of the work.

c. For Class II:

- (1) The consultant contracts shall be submitted to the Board for approval.
- (2) The Chief Administrative Officer and Director of Public Works, individually, are authorized to issue necessary work orders in accordance with any Board approved annual contract for consulting services. In approving work orders, the Chief Administrative Officer and Director of Public Works, individually, shall be limited in the same manner as if each work order is a Class IA or Class IB contract.
- (3) The Auditor-Controller is directed to make payments pursuant to approved Annual Consulting Services Contract for projects covered by an approved work order upon receipt of a signed Consultant Services Invoice form from the consultant approved by the Chief Administrative Officer or Director of Public Works
- (4) After the close of each fiscal year, the Chief Administrative Officer and Director of Public Works, individually, shall make a report to the Board of Supervisors listing for each contract and each project within their respective authority the amounts encumbered for work not yet completed and the amounts expended for work which is completed.

d. For Class III:

- (1) The contract shall be submitted to the Board of Supervisors for approval.
- (2) The Chief Administrative Officer or Director of Public Works shall execute contracts approved by the Board. Facsimile signature may be used for execution of contracts.
- (3) The Chief Administrative Officer or Director of Public Works shall administer the contract pursuant to the terms thereof and shall be authorized to approve modifications to the contract, provided sufficient funds have been appropriated for the project to include the amount of all such modifications, and that each modification shall not exceed \$25,000 or 10% of the contract price, whichever is greater, and that the aggregate total of all modifications approved by the Chief Administrative Officer or Director of Public Works shall not exceed the limits for contracting set forth in Ventura County Ordinance # 4084, Section 3, (m) or 25% of the contract price, whichever is greater. The Board may, on request of the Chief Administrative Officer or Director of Public Works, confirm the approval of all previously issued modifications on the project and set a new total of the Chief Administrative Officer or Director of Public Works approved modifications.

- (4) The Chief Administrative Officer or Director of Public Works shall be authorized to approve extensions of time for the completion of the performance of the contract, in the event that a change in the scope of work is made or in the event of circumstances beyond the control of the consultant.
- (5) On written approval by the Chief Administrative Officer or the Director of Public Works, payments pursuant to the terms of the contract shall be made to the contractor by the Auditor-Controller.
- (6) On completion of all terms of the contract, the Chief Administrative Officer or Director of Public Works shall make final acceptance of the work

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PROJECT PROCESSING PROCEDURES MANUAL REFERENCES

The Ventura County Public Works Agency's Project Processing Procedures Manual (PPPM), is the guide used by staff engineers designing and managing construction projects. Unless specific language is included in consultant services contracts, architects and engineers designing projects for County agencies are required to follow the same guidelines.

Consultant should discuss the preparation of plans and specifications with the Project Manager before starting their preparation to make sure that the Agency's requirements are fully understood. This will save the Consultant from having to do work over (without additional compensation) when the standards are not followed.

The PPPM can be viewed or downloaded at:

<http://pwa.ventura.org/engineering-services-department/standards-and-manuals>

The sections in the PPPM of the most importance to Consultants are shown below. This list is not intended to exclude any part of the PPPM from the Consultant's contractual duties but only highlight the portions that are usually applicable.

GLOSSARY OF TERMS AND ABBREVIATIONS

3.1 ENGINEERING STANDARDS AFFECTING PROJECTS

- 3.1.1 Ventura County Standards
- 3.1.2 Ventura County Standard Specifications
- 3.1.3 Standard Plans for Public Works Construction & CALTRANS Standard
- 3.1.4 Design Methods
- 3.1.5 Changes and New Standards
- 3.1.6 Survey Datum

3.2 FEDERAL REGULATIONS AFFECTING PROJECTS

3.3 CALIFORNIA STATUTES AFFECTING PROJECTS

3.4 VENTURA COUNTY ORDINANCES AFFECTING PROJECTS

3.5 STATE, COUNTY & PUBLIC WORKS AGENCY POLICIES AFFECTING PROJECTS

- 3.5.1 Contract Document Backup Information
- 3.5.2 Plans Preparation
- 3.5.3 Specifications
- 3.5.4 Reference Plans
- 3.5.5 Deviation from Ordinances and Standards

5.0 PROJECT REVIEW

5.1 PROJECT CHECKING REQUIREMENTS

5.2 STAFF REVIEW

5.3 BUILDING AND SAFETY REVIEW

5.4 PERMITS

6.0 CONSTRUCTION CONTRACTS

6.3 ADVERTISING CONSTRUCTION CONTRACTS

6.4 PROCESSING CONSTRUCTION CONTRACT BIDS

7.0 CONSTRUCTION CONTRACT ADMINISTRATION

7.4 OVERVIEW OF RESPONSIBILITIES

7.5 SAFETY

7.7 CHANGES & ADJUSTMENTS TO THE CONTRACT

7.8 CONTRACT PROBLEM MANAGEMENT

PROJECT FLOW CHARTS

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CONSULTANT CONTRACT FORMS**A3-1 USE OF FORMS**

The following documents are attached for informational purposes and do not form a part of the material adopted by reference in the Consulting Contract forms.

The standard forms will not be modified for individual contracts. If a problem is identified with the standard forms that affects all or most consultants, consideration will be given to changing the form. When the standard forms are modified, they must be reviewed prior to use by County Counsel and County-Risk Management.

The guides to preparing Exhibits A, B and C will be modified to meet project requirements and terms agreed to during negotiations. Exhibit A is the scope of the project and services. Exhibit B is the time limits for providing services. Exhibit C is the Consultant's fee and payment schedule.

A3-2 STANDARD FORMS & GUIDES TO PREPARING EXHIBITS

A3-2.1 Text of contract form ES-150 for design type consultant work and form ES-151 for other than design work by consultant. Paragraphs to be deleted for the differences between the two are indicated.
(Form ES-150A and ES-151A are identical except that the reference to Board approval is deleted and it is for execution by a Deputy Purchasing Agent.)

A3-2.2 Exhibits A, B, and C

A3-2.3 Consultant Services Invoice Form and Instructions.

A3-2.4 Annual Consulting Services Contract form and exhibits.

A3-2.5 Typical Exhibit A for annual contracts (Sample is for Record Map Checking, similar forms are available or can be prepared for other services. If more than one type of service is included in an annual contract, Exhibit A-1, etc, are used.)

A3-2.6 Annual contract work order form.

A3-2.7 Annual Contract Invoice Form

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PROFESSIONAL SERVICES CONTRACT
with [Consultant]

(Project No:)

This contract is made and entered into this ___ day of ___, ____, by and between the , hereinafter referred to as AGENCY, and [Consultant], hereinafter referred to as CONSULTANT, regarding CONSULTANT's performance of the work and services described in Exhibit A hereto (the "Work"). CONSULTANT, or a principal of the firm, is registered, licensed or certified by the State of California as a [Registration], number [number].

In consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Scope of Work; Standard of Performance

AGENCY hereby retains CONSULTANT to perform the Work described in Exhibit A hereto. The Work shall be performed in accordance with the terms and conditions of this contract and the County of Ventura Public Works Agency Consultant's Guide to Ventura County Procedures ("Guide") as amended from time to time, which is on file in the office of the Public Works Agency, and which by reference is made a part hereof. This contract shall take precedence over the Guide in case of conflicting provisions; otherwise they shall be interpreted together. In performing the Work CONSULTANT shall exercise the degree of skill and care customarily exercised by professionals in the State of California when providing similar services with respect to similarly complex work and projects.

2. Time Schedule

All Work and any portion thereof separately identified shall be completed within the time provided in the "Time Schedule" attached hereto as Exhibit B. AGENCY will issue a suspension of the contract time if CONSULTANT is delayed by any public agency reviewing documents produced by CONSULTANT under this contract, or solely due to acts or omissions of AGENCY, provided that CONSULTANT promptly notifies AGENCY in writing of such delays.

3. Fees and Payments

Payment shall be made monthly, or as otherwise provided, on presentation of a completed AGENCY Consultant Services Invoice Form in accordance with the "Fees and Payment" provisions attached hereto as Exhibit C.

4. Termination

AGENCY retains the right to terminate this contract for any reason prior to completion of the Work upon five days written notice to CONSULTANT. Upon termination, AGENCY shall pay CONSULTANT for all Work performed prior to such termination, provided however, that such charges shall not exceed the maximum fee specified in Exhibit C for completion of any separately identified task/phase of the Work which, at the time of termination, has been started by request of AGENCY, plus the outstanding amount of contract retention withheld to date.

5. Right to Review

AGENCY shall have the right to review the Work at any time during AGENCY's usual working hours. Review, checking, approval or other action by the AGENCY shall not relieve CONSULTANT of CONSULTANT's responsibility for the accuracy and completeness of the Work.

6. Work Product

On completion or termination of the contract, AGENCY shall be entitled to immediate possession of, and CONSULTANT shall promptly furnish, on request, all reports, drawings, designs, computations, plans, specifications, correspondence, data and other work product prepared or gathered by CONSULTANT

PROFESSIONAL SERVICES CONTRACT

arising out of or related to the Work (collectively, "Work Product"). AGENCY has a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and authorize others to use, Work Product for government purposes. CONSULTANT may retain copies of the Work Product for its files. Work Product prepared by CONSULTANT pursuant to this contract shall not be modified by AGENCY unless CONSULTANT's name, signatures and professional seals are completely deleted. CONSULTANT shall not be responsible for any liabilities to AGENCY for the use of such Work Product that is modified by persons other than CONSULTANT. CONSULTANT is authorized to place the following statement on the drawings, specifications and other Work Product prepared pursuant to this contract:

"This drawing [or These specifications], including the designs incorporated herein, is [are] an instrument of professional service prepared for use in connection with the project identified hereon under the conditions existing on [date]. Any use, in whole or in part, for any other project without written authorization of [CONSULTANT's name] shall be at the user's sole risk."

7. Errors and Omissions

Without limiting AGENCY's other available remedies, if a construction change order is required for the subject project as a proximate result of an error or omission of CONSULTANT in the preparation of the construction or survey documents pursuant to this contract, regardless of whether or not such error or omission was the result of negligence, the necessary amendment or supplement to the construction documents required for such change order shall be made by CONSULTANT at no additional charge to AGENCY.

8. Correction of Work

If any Work performed by CONSULTANT does not conform to the requirements and professional standards of this contract, AGENCY may require CONSULTANT to correct the Work until it conforms to said requirements and standards at no additional cost to AGENCY. AGENCY may withhold payment for disputed Work until CONSULTANT correctly performs the Work or the dispute is otherwise resolved in accordance with this contract. When the Work to be performed is of such a nature that CONSULTANT cannot correct its performance, AGENCY may reduce the CONSULTANT's compensation to reflect the reduced value of the Work received by AGENCY. If CONSULTANT fails to promptly correct non-conforming Work, AGENCY may have the Work performed by a third party in conformance with the requirements and professional standards of this contract and charge CONSULTANT, or withhold from payments due CONSULTANT, any costs AGENCY incurs that are directly related to the performance of the corrective work. AGENCY shall not unreasonably withhold or reduce payment for CONSULTANT's Work under this section.

9. Subconsulting

With the prior written consent of AGENCY, CONSULTANT may engage the professional services of subconsultants for the performance of a portion of the Work ("Subconsultants"). CONSULTANT shall be fully responsible for all Work performed by Subconsultants which must be performed in accordance with all terms and conditions of this contract. All insurance requirements set forth in section 13 below, "Insurance Requirements," shall apply to each Subconsultant, except to the extent such requirements are modified or waived in writing by AGENCY. CONSULTANT shall ensure that each Subconsultant obtains and keeps in force and effect during the term of this contract the required insurance.

10. Independent Contractor

a. No Employment Relationship. CONSULTANT is an independent contractor, and no relationship of employer and employee is created by this contract. Neither CONSULTANT nor any of the persons performing services for CONSULTANT pursuant to this contract, whether said person be a principal, member, partner, officer, employee, agent, volunteer, associate, Subconsultant or otherwise of CONSULTANT, will have any claim under this contract or otherwise against AGENCY for any salary,

PROFESSIONAL SERVICES CONTRACT

wages, sick leave, vacation pay, retirement, social security, workers' compensation, disability, unemployment insurance, federal, state or local taxes, or other compensation, benefits or taxes of any kind. AGENCY is not required to make any deductions from the compensation payable to CONSULTANT under the provisions of this contract. CONSULTANT shall be solely responsible for self-employment Social Security taxes, income taxes and any other taxes levied against self-employed persons. CONSULTANT does not assign such obligation to AGENCY for collection or administration except as may be required by federal and state law.

b. No AGENCY Control of Means and Methods of Performance. Except as otherwise provided in this contract, AGENCY will have no control over the means or methods by which CONSULTANT will perform services under this contract, provided, however, that CONSULTANT will perform services hereunder and function at all times in accordance with approved methods of practice in the professional specialty of CONSULTANT.

c. Third Parties Employed by CONSULTANT. If, in the performance of this contract, any third parties (including, without limitation, Subconsultants) are employed by CONSULTANT, such third parties will be entirely and exclusively under the direction, supervision and control of CONSULTANT. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging, and other applicable requirements of law will be the responsibility of and determined by CONSULTANT, and AGENCY will have no right or authority over such third parties or the terms of such employment, except as provided in this contract.

d. Compliance with Workers' Compensation Laws. CONSULTANT will comply with all applicable provisions of the Workers Compensation Insurance and Safety Act of the State of California (codified as amended commencing at Labor Code section 3200), including, without limitation, divisions 4 and 5 of the California Labor Code, and all amendments thereto, and all applicable similar state and federal acts or laws, and will indemnify and hold harmless AGENCY from and against all Third Party Claims (defined elsewhere herein) presented, brought or recovered against AGENCY, for or on account of any liability under any of said laws which may be incurred by reason of any services to be performed under this contract.

e. Indemnity for Claims of Employer-Employee Relationship. CONSULTANT agrees to defend, through attorneys approved by AGENCY, indemnify and hold harmless AGENCY and its boards, agencies, departments, officers, employees, agents and volunteers from and against any and all Third Party Claims (defined elsewhere herein) made against AGENCY based upon any contention by any third party that an employer-employee relationship exists by reason of this contract. CONSULTANT further agrees to hold AGENCY harmless from and to compensate AGENCY for any Third Party Claims against AGENCY for payment of state or federal income or other tax obligations relating to CONSULTANT's compensation under the terms of this contract. CONSULTANT will not settle or otherwise compromise a Third Party Claim covered by this subsection without AGENCY's advance written approval. This subsection does not apply to any penalty imposed by any governmental agency that is not caused by or the fault of CONSULTANT.

11. Duty of Loyalty; Conflicts of Interest

- a. CONSULTANT owes AGENCY a duty of undivided loyalty in performing the Work under this contract, including the obligation to refrain from having economic interests and participating in activities that conflict with AGENCY's interests with respect to the Work and subject project. CONSULTANT shall take reasonable measures to ensure that CONSULTANT and its principals, officers, employees, agents and Subconsultants do not possess a financial conflict of interest with respect to the Work and subject project. CONSULTANT shall promptly inform AGENCY of any matter that could reasonably be interpreted as creating a conflict of interest for CONSULTANT with respect to the Work and subject project.

PROFESSIONAL SERVICES CONTRACT

- b. CONSULTANT acknowledges that the California Political Reform Act ("Act"), Government Code section 81000 et seq., provides that principals, officers, employees and agents of consultants retained by a public agency may be deemed "public officials" subject to the Act if they make or advise AGENCY on decisions or actions to be taken by AGENCY. To the extent AGENCY determines that the Act applies to CONSULTANT or its principals, officers, employees or agents, each designated person shall abide by the Act, including the requirement for public officials to prepare and file statements disclosing specified economic interests, as directed by AGENCY. In addition, CONSULTANT acknowledges and shall abide by the contractual conflict of interest restrictions imposed on public officials by Government Code section 1090 et seq.
- c. During the term of this contract CONSULTANT shall not employ or compensate AGENCY's current employees.

12. Defense and Indemnification

CONSULTANT agrees to defend, through attorneys approved by AGENCY, indemnify and hold harmless AGENCY and the County of Ventura (if not defined as AGENCY), and their boards, agencies, departments, officers, employees, agents and volunteers (collectively, "Indemnitee") from and against any and all claims, lawsuits, judgments, debts, demands and liability (including attorney fees and costs) (collectively, "Third Party Claims"), including, without limitation, those arising from injuries or death of persons and/or damage to property, that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of CONSULTANT or its principals, officers, employees, agents or Subconsultants in the performance of this contract. This indemnity provision does not apply to Third Party Claims arising from the sole negligence or willful misconduct of Indemnitee or to the extent caused by the active negligence of Indemnitee. CONSULTANT shall not settle or otherwise compromise a Third Party Claim covered by this section without AGENCY's advance written approval.

13. Insurance Requirements

- a. Without limiting CONSULTANT's duty to defend and indemnify AGENCY as required herein, CONSULTANT shall, at CONSULTANT's sole cost and expense and throughout the term of this contract and any extensions hereof, carry one or more insurance policies that provide at least the following minimum coverage:
 - i. Commercial general liability insurance shall provide a minimum of \$1,000,000.00 coverage for each occurrence and \$2,000,000.00 in general aggregate coverage.
 - ii. Automobile liability insurance shall provide a minimum of either a combined single limit (CSL) of \$1,000,000.00 for each accident or all of the following: \$250,000.00 bodily injury (BI) per person, and \$500,000.00 bodily injury per accident, and \$100,000.00 property damage (PD). Automobile liability insurance is not required if CONSULTANT does no traveling in performing the Work.
 - iii. Workers' compensation insurance in full compliance with California statutory requirements for all employees of CONSULTANT in the minimum amount of \$1,000,000.00. This workers' compensation insurance requirement may only be waived by AGENCY in writing if CONSULTANT is a sole proprietor with no employees and CONSULTANT provides AGENCY with evidence of such before commencing any work under the contract.
 - iv. Professional liability (errors and omissions) insurance shall provide a minimum of \$1,000,000.00 coverage per claim and \$2,000,000.00 in annual aggregate coverage.

If CONSULTANT maintains higher limits than the minimums shown above, AGENCY requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT. Any

PROFESSIONAL SERVICES CONTRACT

- available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to AGENCY.
- b. With respect to any coverage written on a "claims made" basis, CONSULTANT shall, for three years after the date when this contract is terminated or completed, maintain such policy with a retroactive date that is on or before the start date of contract services or purchase an extended reporting period endorsement (tail coverage). AGENCY may withhold final payments due until satisfactory evidence of the tail coverage is provided by CONSULTANT to AGENCY. Such policy shall allow for reporting of circumstances or incidents that may give rise to future claims.
 - c. CONSULTANT shall notify AGENCY immediately if CONSULTANT's general aggregate of insurance is exceeded by valid litigated claims in which case additional levels of insurance must be obtained to maintain the above-stated requirements. All required insurance shall be written by a financially responsible company or companies authorized to do business in the State of California. CONSULTANT shall notify AGENCY of any and all policy cancellations within three working days of the cancellation.
 - d. The commercial general liability policy shall name AGENCY and the County of Ventura (if not defined as AGENCY) and their respective officials, employees, and agents as additional insureds ("Additional Insureds"). All required insurance shall be primary coverage as respects the Additional Insureds, and any insurance or self-insurance maintained by Additional Insureds shall be in excess of CONSULTANT's insurance coverage and shall not contribute to it. Coverage shall apply separately to each insured, except with respect to the limits of liability, and an act or omission by one of the named insureds shall not reduce or avoid coverage to the other named insureds. Additional Insured coverage shall include both ongoing and completed operations. In the case of policy cancellation, AGENCY shall be notified by the insurance company or companies as provided for in the policy.
 - e. CONSULTANT hereby waives all rights of subrogation against AGENCY, the County of Ventura, all special districts governed by the Board of Supervisors, and each of their boards, directors, employees and agents for losses arising directly or indirectly from the activities or Work under this contract. The commercial general liability, automobile liability and workers' compensation policies shall contain a provision or endorsement needed to implement CONSULTANT's waiver of these rights of subrogation.
 - f. Prior to commencement of the Work, CONSULTANT shall furnish AGENCY with certificates of insurance and endorsements effecting all coverage required hereunder. Copies of renewal certificates and endorsements shall be furnished to AGENCY within 30 days of the expiration of the term of any required policy. CONSULTANT shall permit AGENCY at all reasonable times to inspect any policies of insurance required hereunder.
 - g. Each insurance policy required above shall state that coverage shall not be canceled except with notice to AGENCY.

14. Claims and Disputes

- a. Administrative Review. Prior to filing a complaint in arbitration against AGENCY seeking payment of money or damages regarding the Work, an extension of contract time, or an interpretation or adjustment of the terms of this contract, including "pass-through" claims asserted by CONSULTANT on behalf of a Subconsultant (collectively referred to hereinafter as "claim"), CONSULTANT shall first exhaust its administrative remedies by attempting to resolve the claim with AGENCY's staff in the following sequence: 1) Project Manager, 2) Deputy Director of Public Works ("Department Director") and 3) Director of Public Works Agency ("Agency Director"). CONSULTANT shall initiate the administrative review process no later than 30 days after the claim has arisen by submitting to the Project Manager a written statement describing each claim and explaining why CONSULTANT believes AGENCY is at fault, as well as all

PROFESSIONAL SERVICES CONTRACT

correspondence and evidence regarding each claim. CONSULTANT may appeal the decision made by the Project Manager to the Deputy Director, and may appeal the decision made by the Deputy Director to the Agency Director, provided that AGENCY receives such appeal in writing no later than seven days after the date of the decision being appealed. If CONSULTANT does not appeal a decision to the next level of administrative review within this seven-day period, the decision shall become final and binding and not subject to appeal or challenge.

- b. Arbitration. All CONSULTANT claims not resolved through the administrative review process stated above shall be resolved by arbitration unless AGENCY and CONSULTANT agree in writing, after the claim has arisen, to waive arbitration and to have the dispute litigated in a court of competent jurisdiction. Arbitration shall be pursuant to article 7.1 (commencing with section 10240) of chapter 1 of part 2 of the Public Contract Code and the regulations promulgated thereto, chapter 4 (commencing with section 1300) of division 2 of title 1 of the California Code of Regulations (collectively, "Rules for Public Works Contract Arbitrations"). Arbitration shall be initiated by a complaint in arbitration prepared, filed and served in full compliance with all requirements of the Rules for Public Works Contract Arbitrations. CONSULTANT consents and agrees that AGENCY may join it as a party to any arbitration involving third party claims asserted against AGENCY arising from or relating to any Work performed by CONSULTANT hereunder.

15. Compliance with Laws and Regulations; Permits and Licenses

CONSULTANT shall perform its obligations hereunder in compliance with all applicable federal, state, and local laws and regulations. CONSULTANT certifies that it possesses and shall continue to maintain or shall cause to be obtained and maintained, at no cost to AGENCY, all approvals, permissions, permits, licenses, and other forms of documentation required for it and its principals, officers, employees, agents and Subconsultants to comply with all applicable statutes, ordinances, and regulations, or other laws, that apply to performance of the Work. AGENCY is entitled to review and copy all such applications, permits, and licenses which CONSULTANT shall promptly make available upon AGENCY's request.

16. Prevailing Wage Requirements

Certain Work to be performed under this contract may be considered "public works" subject to prevailing wage, apprenticeship and other labor requirements of Labor Code division 2, part 7, chapter 1, section 1720 et seq. Such public works may include work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work. CONSULTANT is solely responsible for determining whether the Work, or any portion thereof, is subject to said requirements, and for complying with all such requirements that apply. All such public works projects are subject to compliance monitoring by the California Department of Industrial Relations (DIR). AGENCY has obtained from the DIR general prevailing wage determinations for the locality in which the Work is to be performed that are on file with AGENCY's Public Works Agency and are available upon request. CONSULTANT is responsible for posting job site notices as prescribed by regulation pursuant to Labor Code section 1771.4(a)(2). CONSULTANT acknowledges that it is aware of state and federal prevailing wage and related requirements, and shall comply with these requirements to the extent applicable to the Work, including, without limitation, Labor Code sections 1771 (payment of prevailing wage), 1771.1 (registration with DIR) and 1771.4 (submission of certified payrolls to Labor Commissioner).

17. Miscellaneous

- a. Entire Understanding. This contract is an integrated agreement and constitutes the final expression, and the complete and exclusive statement of the terms of, the parties' agreement with respect to the subject matter hereof. This contract supersedes all contemporaneous oral and prior oral and written agreements, understandings, representations, inducements, promises, communications or warranties of any nature whatsoever, by either party or any agent, principal, officer, partner, employee or representative of either party, with respect to the subject matter hereof. Without limiting the foregoing, CONSULTANT acknowledges that no representation,

PROFESSIONAL SERVICES CONTRACT

inducement, promise or warranty not contained in this contract will be valid or binding against AGENCY.

- b. No modification, waiver, amendment or discharge of this contract shall be valid unless the same is in writing and signed by duly-authorized representatives of both parties.
- c. Nonassignability. CONSULTANT will not assign this contract or any portion thereof to a third party without the prior written consent of AGENCY, and any attempted assignment without such prior written consent will be null and void and will be cause, at AGENCY's sole and absolute discretion, for immediate termination of this contract. AGENCY may withhold its consent to assignment at its discretion. In the event AGENCY consents to assignment, the obligations of CONSULTANT hereunder shall be binding on CONSULTANT's assigns.
- d. Third Party Beneficiaries. Except for indemnitees under sections 8 and 14.e above, this contract does not, and the parties to this contract do not intend to, confer a third party beneficiary right of action on any third party whatsoever, and nothing set forth in this contract will be construed so as to confer on any third party a right of action under this contract or in any manner whatsoever.
- e. Time limits stated herein are of the essence.
- f. Governing Law; Venue. This contract is made and entered into in the State of California and shall, in all respects, be interpreted, governed and enforced in accordance with the laws of the State of California applicable to contracts entered into and fully to be performed therein. The venue for any action, suit, arbitration, judicial reference or other proceeding concerning this contract shall be in Ventura County, California.
- g. All notices, requests, claims, and other official communications under the contract shall be in writing and transmitted by one of the following methods:
 - (1) Personal delivery.
 - (2) Facsimile where receipt is confirmed.
 - (3) Courier where receipt is confirmed.
 - (4) Registered or certified mail, postage prepaid, return receipt requested.

Such notices and communications shall be deemed given and received upon actual receipt in the case of all except registered or certified mail; and in the case of registered or certified mail, on the date shown on the return receipt or the date delivery during normal business hours was attempted. All notices and communications shall be sent to CONSULTANT at the current address on file with AGENCY for contract payment purposes, and shall be sent to AGENCY as follows:

Public Works Agency
 County of Ventura L#1670
 800 South Victoria Avenue
 Ventura, CA 93009-1670
 Facsimile: (805) 677-8762

Either party may change its contact information by providing written notice of the change to the other party in accordance herewith.

- h. Further Actions. The parties hereto agree that they will execute any and all documents and take any and all other actions as may be reasonably necessary to carry out the terms and conditions of this contract.
- i. Legal Representation. Each party warrants and represents that in executing this contract, the party has relied upon legal advice from attorneys of the party's choice (or had a reasonable opportunity to do so); that the party has read the terms of this contract and had their

PROFESSIONAL SERVICES CONTRACT

- consequences (including risks, complications and costs) completely explained to the party by the party's attorneys (or had a reasonable opportunity to do so); and that the party fully understands the terms of this contract. Each party further acknowledges and represents that the party has executed this contract freely and voluntarily without the undue influence of any person, and the party has not relied on any inducements, promises or representations made by any person not expressly set forth in this contract.
- j. No Waiver. Failure by a party to insist upon strict performance of each and every term, condition and covenant of this contract shall not be deemed a waiver or relinquishment of the party's rights to enforce any term, condition or covenant.
 - k. Partial Invalidity. If any provision of this contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the parties intend, and it shall be so deemed, that the remaining provisions of this contract shall continue in full force without being impaired or invalidated in any way. If such provision is held to be invalid, void or unenforceable due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
 - l. Interpretation of Contract. For purposes of interpretation, this contract shall be deemed to have been drafted by both parties, and no ambiguity shall be resolved against any party by virtue of the party's participation in the drafting of the contract. Accordingly, Civil Code section 1654 shall not apply to the interpretation of this contract. Where appropriate in the context of this contract, the use of the singular shall be deemed to include the plural, and the use of the masculine shall be deemed to include the feminine and/or neuter.
 - m. Counterparts. This contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same contract.

CONSULTANT:**AGENCY:**

 Signature

 Public Works Director or
Deputy Purchasing Agent

 Print Name and Title

 Signature

 Print Name and Title

 [VendorID]

 Vendor Number

Professional Services Contract AE00-000

Template Information (Version 08192015)

Enter the following information below to be filled in automatically in the templates.

Contract Number: AE00-000 This number is obtained from the ESD Consultant Contracts Specialist

Contracting Agency: County of Ventura

Consultant's Name: enter consultant's name

Amount of Extra Services: \$0.00

Retention on Payments: 5% The amount that the PM wants to retain on lump sum payments until all of the work is completed. The amount of Retention should be based on the risk exposure to the County if the Consultant does not complete all of the work. Recommend amount ranges from 0% to 10%

File Location: C:\Users\Barnesje\AppData\Local\Temp\Xpgrpwise\ABC Contract.Docx

Last Printed: 9/29/2015 1:32 PM

Last Saved: 9/29/2015 1:32 PM

Instructions

1. Notes and commentary are in **red**. All **red text** must be deleted prior to finalizing the exhibits.
2. **DO NOT DELETE THIS PAGE!** Deleting this page will erase all of the bookmark references and the headers and footers will not work properly.
3. This document must be Protected in order for the bookmark references to work properly. The user should not need to unprotect the document in order to use it as it was intended.

Professional Services Contract AE00-000

EXHIBIT A - SCOPE OF WORK AND SERVICES

1. Overview of Project and Services

The AGENCY has engaged CONSULTANT to provide the following services, which are more specifically described in the Basic Services section below, to assist the AGENCY with the following project:

[Provide one or two-sentence overview of the Basic Services and Project. DO NOT define Basic Services as the "Work"]

2. Basic Services

The following Basic Services shall be performed by CONSULTANT:

[Describe in detail what it is you want the CONSULTANT to do, any restrictions on how it is completed, and the specific deliverables required. Basic Services should be organized by task with deliverables (if applicable). Consideration should be given to:

- Any special considerations or requirements
- Work or services to be performed by other CONSULTANTS
- Sub-CONSULTANTS required to be hired by CONSULTANT either listed by name or discipline.
- If the scope and pricing is known but the timing is not, then write the work as a Task (not Extra Services) but start with the words "Upon written direction by AGENCY..."

Rules for writing the Basic Services

- Tasks should be written directing the consultant to do something. This can best be done by starting the task with an action verb such as perform, prepare, design, etc.
- Tasks should be broken down by how you will manage the work, track costs and want your consultant to invoice for work completed.
- AGENCY and CONSULTANT should always be referred to in all capital letters.
- In assigning responsibility to perform activities always use "shall" for consultants and "will" for AGENCY.
- The consultant is always referred to as CONSULTANT and we refer to ourselves as AGENCY. AGENCY is defined as County or the appropriate special district in the boilerplate.
- Do not include any payment, cost, or scheduling information in this exhibit. That information is provided in exhibits B and C.

Below is a sample task:

Task 1 – Evaluate Existing Condition

Perform an evaluation of the existing condition to include but not limited to document research, field visit(s) and meetings with project stakeholders. Prepare a report documenting the data collection activities conducted, summary of findings, analysis and recommendations.

Deliverables

1. Evaluation Report; Bound (one original and 10 copies)

Professional Services Contract AE00-000

3. Extra Services

[Extra Services are not part of the Basic Services but they must be related to the Basic Services. By definition, the scope and pricing of Extra Services cannot be defined when the contract is written. Extra Services is a form of contingency to get work done that is related to the Basic Services. Delete this section if Extra Services are not needed]

Extra Services are separate from but related to the Basic Services described above. Extra Services shall be performed by CONSULTANT only after being authorized in writing by the Project Manager for AGENCY. The AGENCY'S written authorization will include a statement of the Extra Services required and time schedule for completion. CONSULTANT's billing and AGENCY's payment for Extra Services shall occur pursuant to Exhibit C.

4. County Services

The AGENCY will provide or accomplish the following:

1. Full information as to the requirements of the services to be provided by CONSULTANT under the contract.
2. Review documents submitted by CONSULTANT and provide comments, direction, or approval as needed in a timely manner.
3. *[Include other items that we may be providing the consultant such as survey information, reports, maps, etc. Be very careful that the County owns or has legal rights to provide all information given to consultants.]*

End of Exhibit A

Professional Services Contract AE00-000

EXHIBIT B - TIME SCHEDULE**1. Schedule**

All Work on this contract shall be completed by XX/XX/20XX.

CONSULTANT shall complete intermediate tasks as follows:

Task Table

Task	Description	Due Date

[Specify when deliverables are due. Use actual dates whenever possible but days after some referenced event are ok. A consultant can't be late if there isn't a due date. Make sure to clearly relate expectations.]

2. Delays

If all work under this contract cannot be completed by the dates specified in Exhibit B through no fault of CONSULTANT, the fee for the work not then completed may be adjusted to reflect increases in cost which occur, due to delay, from the date that the work was required to be complete as specified in Exhibit B until the time the work can actually be completed. Any payments of additional fee as described in this paragraph must be authorized by AGENCY with a modification to this contract.

End of Exhibit B

Professional Services Contract AE00-000

EXHIBIT C – Fees and Payments

1. Compensation Summary

The following summarizes the maximum amount of compensation available to CONSULTANT under this contract. The actual amount of compensation shall be established and paid in accordance with the applicable provisions of the contract including this Exhibit C.

[Fill in below the amounts for the Basic Services Fee, Extra Services Fee (if none, insert \$0), and Reimbursable Expenses. These numbers should be the same as those filled in in paragraphs 2., 3., and 5. below. If "Basic Services" Fee includes both Lump Sum priced tasks and Reimbursable tasks, insert the sum of the two amounts here.]

Maximum Fees for Basic Services:	\$ _____
Maximum Fees for Extra Services:	\$ _____
Maximum Reimbursement for Expenses:	\$ _____
 Total Amount Not to Exceed:	 \$ _____

2. Fees For Basic Services

AGENCY agrees to pay CONSULTANT the following fees for Basic Services *[Check box that applies. If this contract includes some tasks that are Lump Sum based and some tasks that are reimbursed based on hours worked, check both boxes and provide the appropriate information in the tables]:*

☐ an **hourly rate** compensation, for actual hours of Basic Services performed that is based upon the hourly rates set forth in the following rate schedule, which rates shall remain fixed for the duration of the contract, not to exceed the **maximum fee amount of \$_____**. The maximum fees for the respective tasks identified in Exhibit A as well as the total maximum fee amount are shown in the below Task table. In no case shall a fee for a specific task exceed that listed below without prior written approval by the AGENCY. Rates to be charged are identified in the Rate table listed below.

[If this option is selected, insert the Rate Table, listing the positions/services and the respective rates and the Task Table, listing the tasks and the respective Fees. The tasks listed in this Task Table should match those listed in Exhibit A and the Exhibit B Task Table. Only the fees included in the Task Table can be included in an invoice. Make sure to include subconsultants, equipment, and other items that may be used. If the Rate Table is large it can be added to the end of this Exhibit with a reference made to it here. If this option is not selected, delete these tables.]

Rate Table

Item	Position/Equipment	Unit	Regular ¹	Prevailing ²	Travel ³
				n/a	No
				n/a	No
				n/a	No
				n/a	No
				n/a	No
				n/a	No

- Notes: 1) The Regular rates shown include all routine general and administrative expenses including but not limited to: phone calls, travel within Ventura County (see note 3), incidental photocopying, and office equipment unless otherwise expressly listed in the fee schedule above.
- 2) The Prevailing rates shown include all routine general and administrative expenses including but not limited to: phone calls, travel within Ventura County (see note 3), incidental photocopying, and office equipment unless otherwise expressly listed in the fee schedule above.
- 3) The word "Yes" in the Travel column above indicates that reimbursement for travel within Ventura County is authorized for the position described by that item.

Professional Services Contract AE00-000

Task Table

Task	Description	Maximum Fee
Total		\$0.00

☐ a **fixed fee** compensation, in the lump sum amount of \$_____, for completion of all Basic Services.

[If this option is selected, insert the fee table and/or value for each task. Only the fees included in the fee table can be included in an invoice. Make sure to include subconsultants, equipment, and other items that may be used. If the fee table is large it can be added to the end of this Exhibit with a reference made to it here. If this option is not selected, delete this table.]

Task Table

Task	Description	Lump Sum
Total		\$ 0.00

3. Fees For Extra Services

For Extra Services authorized in writing in advance by AGENCY in accordance with Exhibit A, AGENCY agrees to pay CONSULTANT an **hourly rate** compensation for actual hours of Extra Services performed that is based upon the hourly rates set forth in the rate schedule for Basic Services above or, if none, then based upon the hourly rates set forth in the following rate schedule for Extra Services, which rates shall remain fixed for the duration of the contract, not to exceed the **maximum fee amount of \$_____**.

[If no Rate Table is provided in section 2 above under the "hourly rate" option and a provision for Extra Services is included in the contract, provide a Rate Table here. If the Rate Table is large it can be added to the end of this Exhibit with a reference made to it here. If this option is not selected, delete this table]

Rate Table

Item	Position	Unit	Regular ¹	Prevailing ²	Travel ³
				n/a	No
				n/a	No
				n/a	No
				n/a	No
				n/a	No
				n/a	No

4. Delays

If Work cannot be completed by the dates specified in Exhibit B through no fault of CONSULTANT, the fees for the Work not then completed may be adjusted to reflect increases in cost which occur, due to delay, from the date that the Work was required to be complete as specified in Exhibit B until the time the Work can actually be completed. Any payments of such additional fees must be authorized by AGENCY with a written modification to this contract.

Professional Services Contract AE00-000

5. Reimbursable Expenses

CONSULTANT shall be reimbursed a sum for the following reasonable out-of-pocket expenses that are incurred and paid for by CONSULTANT in furtherance of performance of its obligations under this contract, but only to the extent that such expenses are directly related to CONSULTANT's services hereunder and do not exceed the **maximum reimbursable amount of \$_____**:

- (i) outside printing directly related to deliverables but not for internal uses of CONSULTANT or its Subconsultants;
- (ii) reproduction or reprographic costs directly related to deliverables but not for internal uses of CONSULTANT or its Subconsultants. If CONSULTANT provides allowable reprographic or reprographic services using its own equipment rather than using an outside service, the unit billing rates for such charges must be approved in advance by AGENCY;
- (iii) shipping, overnight mail, postage, messenger, courier and/or delivery services (but not for CONSULTANT's internal communications);
- (iv) only if authorized in writing in advance by AGENCY, reimbursement for business travel for the specific position descriptions so identified in the Fee Schedule in this Exhibit. AGENCY shall reimburse CONSULTANT for transportation, lodging, and meal expenses that are consistent with the policies and amounts approved for County employees as defined by policy number Chapter VII(C)-1, *Reimbursement of Employees County Business Expenses*, in the County's Administrative Policy Manual (latest edition);
- (v) only if authorized in writing in advance by AGENCY, fees and costs for Subconsultant services that are not included in the rate tables for Basic Services or Extra Services set forth above.

Exclusive List. The list of reimbursable expenses set forth above is the sole and exclusive list of reimbursable expenses that CONSULTANT is entitled to receive.

Approval Limits. Any reimbursable expense wherein a single item exceeds \$500 in value, whether purchased or leased, must be approved in writing in advance by AGENCY.

No Administrative Charge or Mark-Ups. The reimbursement provided for herein shall not include an administrative charge, multiplier or other mark-up by CONSULTANT unless authorized in writing, in advance, by AGENCY.

No Reimbursement for Specified Basic Services Paid for by a Fixed Fee. Notwithstanding the above, expenses related to Basic Services specified in Exhibit B are not reimbursable if CONSULTANT is compensated for Basic Services by a fixed fee.

6. Payment

AGENCY shall make payments to CONSULTANT under the contract as follows:

Requests for Payment

Each request for payment shall include: (i) personnel time records for Basic Services and Extra Services actually performed at the rates specified in this Exhibit C if applicable; (ii) receipts for all authorized reimbursable expense, along with the written AGENCY authorization for any specific reimbursable expenses requested for payment if required above.

When invoicing for Extra Services, CONSULTANT shall clearly mark which request for payment items are for Extra Services and keep them separate from items for Basic Services, and shall include a copy of the written AGENCY authorization for the Extra Services requested for payment.

CONSULTANT shall submit all requests for payment to:

Public Works Agency
County of Ventura L#1670
800 South Victoria Avenue
Ventura, CA 93009-1670

Professional Services Contract AE00-000

Payment Schedule

Payments shall be made monthly by AGENCY upon presentation of a properly completed AGENCY claim form that has been approved by AGENCY. Upon approval, AGENCY shall pay CONSULTANT 95% of the maximum fee for the specific task/milestone stated below until that task/milestone has been completed and accepted by AGENCY, at which point CONSULTANT shall be paid the balance.

Timely Invoicing

Timely invoicing by CONSULTANT is required. Delays in invoicing for services performed increases the management effort required by AGENCY to ensure accurate payments to CONSULTANT and manage project budgets. Accordingly, CONSULTANT shall request payment for services no later than 60 calendar days after the date that the services were performed. Requests for payment on items received by AGENCY more than 60 calendars days after the services were performed shall be reduced by 5% to compensate AGENCY for the additional management costs. Additionally, since increases in administrative and budgetary problems caused by late invoicing correlate to the length of delay in invoicing, there will be an additional 5% reduction in compensation for each 30 day period beyond 60 days from when the services were performed.

CONSULTANT shall submit a final invoice within 60 days of the earliest of the following events: 1) completion and acceptance by AGENCY of all Work required by the contract; or 2) termination of the contract.

End of Exhibit C

Consultant Services Invoice Form

Public Works Agency

Contract Information

Company:		Vendor ID:
Send Payment To: Send payment to this address		Encumbrance: PWA 6500
AE Number:	Award Date:	Vendor Email:
Contract Title:		Completion:
County Proj Mgr:	Dept:	Phone:

Invoice Information

Invoice Number:	Invoice Date:	Invoice Period:
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Summary of Basic Services Thru Modification: 00 Maximum Partial Payment: 95%

Task	Description	Type	Amount Authorized	Amount Completed	% Comp	Previous Invoices	Amount This Invoice
1.		T&M			0%		\$0.00
2.		T&M			0%		\$0.00
3.		T&M			0%		\$0.00
4.		T&M			0%		\$0.00
5.		T&M			0%		\$0.00
Total Basic Services =			\$0.00	\$0.00	0%	\$0.00	\$0.00
Basic Services Balance =			\$0.00				

Reimbursable Expenses Maximum Available =

Num	Description	Amount Authorized	Amount Completed	% Comp	Previous Invoices	Amount This Invoice
1.				0%		\$0.00
Total Reimbursable Expenses =		\$0.00	\$0.00	0%	\$0.00	\$0.00
Reimbursable Balance =		\$0.00				

Summary of Extra Services Maximum Available =

Num	Description	Amount Authorized	Amount Completed	% Comp	Previous Invoices	Amount This Invoice
1.				0%		\$0.00
2.				0%		\$0.00
3.				0%		\$0.00
Total Extra Services =		\$0.00	\$0.00	0%	\$0.00	\$0.00
Extra Services Balance =		\$0.00				

	\$0.00	\$0.00	0%	\$0.00	\$0.00
	Total Amounts to Date	Amount Complete	Percent	Previous Invoice	This Invoice

Notes

- Time sheets and invoices must be submitted for all Tasks that are billed as Time & Materials (T&M).
- Copies of the letter(s) authorizing Extra Services must be attached for all Extra Services being invoiced.

Consultant's Certification

I certify that the amounts being invoiced as entered on this form are accurate to the best of my knowledge and are in compliance with the contract identified above.

Signature

Typed Name & Title

Phone

Agency Project Manager's Approval

I have reviewed this invoice against the contract requirements and accepted work and **APPROVE** the amounts being requested for payment.

I have reviewed this invoice against the contract requirements and **REJECT** the invoice for the reasons written on the back of this page.

This is the **FINAL PAYMENT** on this contract and request that it be **CLOSED** and the remaining funds released.

Signature

Date

CSD: 1) IN PWA #: _____ 2) Date of Approval: _____

Instructions for the Consultant Services Invoice Form

Public Works

1. At contract or work order award, Public Works will provide an invoice form to the consultant with the contract or work order information already entered.
2. Public Works will provide an updated invoice form to the consultant with each contract modification involving a change in the contract dollar amounts or contract completion date.

Consultant

1. Use the same invoice form for all invoices on the contract or work order. DO NOT use this form for other contracts or work orders.
2. Update all shaded areas to reflect the following. If any of this information is missing the invoice will be returned.
 - a. Mailing address where the payment is to be sent.
 - b. Invoice number, date and invoicing period.
 - c. The amount of work completed and accepted for each Task in the Basic Services.
 - d. The amount of work completed and accepted for each Extra Service authorized.
 - e. The amount of work previously invoiced for each Task and Extra Service regardless if payment has been received or not.
3. If the consultant enters any amount for Total Completed that exceeds the Maximum Partial Payment percentage as specified in the contract and shown on the form, and is less than 100% of the amount authorized, then the amount to be paid will be reduced so as to not exceed the Maximum Partial Payment percentage.
4. The consultant shall certify the invoice form in the space provided near the bottom.
5. The consultant will submit the certified invoice form along with all supporting information required by the contract and the Project Manager. Invoices can be mailed to the address provided in the contract or emailed as a pdf file to the ESD Consultant Contracts Specialist.

ANNUAL PROFESSIONAL SERVICES CONTRACT [AE_Number]
with [Consultant]

This contract is made and entered into this 1st day of July, 2016, by and between the County of Ventura, hereinafter referred to as AGENCY, and [Consultant], hereinafter referred to as CONSULTANT regarding CONSULTANT's performance of the work and services described in Exhibit A hereto, including all Work Orders issued thereunder (the "Work"). CONSULTANT, or a Principal of the firm, is registered, licensed or certified by the State of California as a [Registration], number [number].

The Board of Supervisors action of (Item Number) approved this contract and delegated to the Director of the Public Works Agency ("DIRECTOR") authority to execute this contract as approved by the Board. This contract shall be administered for AGENCY by the DIRECTOR or his authorized representative.

In consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Scope of Work; Standard of Performance

AGENCY hereby retains CONSULTANT to perform the Work described in Exhibit "A", including all Work Orders issued thereunder. The Work shall be performed in accordance with the terms and conditions of this contract and the County of Ventura Public Works Agency *Consultant's Guide to Ventura County Procedures* as amended from time to time, which is on file in the office of the Public Works Agency, and which by reference is made a part hereof. This contract shall take precedence over the guide in case of conflicting provisions; otherwise they shall be interpreted together. In performing the Work, CONSULTANT shall exercise the degree of skill and care customarily exercised by professionals in the State of California when providing similar services with respect to similarly complex work and projects.

2. Time Schedule

All Work under this contract, and any portion thereof separately identified, shall be completed within the time provided in the "Time Schedule," attached hereto as Exhibit B. AGENCY will issue a suspension of the contract time if CONSULTANT is delayed solely by action or inaction of AGENCY, provided CONSULTANT promptly notifies AGENCY in writing of such delays.

3. Fees and Payments

Payment shall be made monthly, or as otherwise provided, on presentation of a completed AGENCY Consultant Services Invoice Form in accordance with the "Fees and Payment" provisions attached hereto as Exhibit C.

4. Termination

AGENCY retains the right to terminate this contract or any Work Order under this contract for any reason prior to completion of the applicable Work upon five days' written notice to CONSULTANT. Upon termination, AGENCY shall pay CONSULTANT for all applicable Work performed prior to such termination, provided, however that such charges shall not exceed the maximum fee specified in Exhibit C or the applicable Work Order thereunder for completion of any separately identified phase of the Work which, at the time of termination, has been started by request of AGENCY, plus the outstanding amount of retention withheld to date.

ANNUAL PROFESSIONAL SERVICES CONTRACT

5. Right to Review

AGENCY shall have the right to review the Work at any time during AGENCY's usual working hours. Review, checking, approval or other action by the AGENCY shall not relieve CONSULTANT of CONSULTANT's responsibility for the accuracy and completeness of the Work.

6. Work Product

On completion or termination of the contract, AGENCY shall be entitled to immediate possession of, and CONSULTANT shall furnish, on request, all reports, drawings, designs, computations, plans, specifications, correspondence and other pertinent data and other work product prepared or gathered by CONSULTANT for the Work (collectively, "Work Product"). AGENCY has a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and authorize others to use, Work Product for government purposes. CONSULTANT may retain copies of Work Product for CONSULTANT's files. Work Product prepared by CONSULTANT pursuant to this contract shall not be modified by AGENCY unless CONSULTANT's name, signatures and professional seals are completely deleted. CONSULTANT shall not be responsible for any liabilities to AGENCY for the use of such Work Product that is modified by persons other than CONSULTANT. CONSULTANT is authorized to place the following statement on drawings and specifications prepared pursuant to this contract:

"This drawing [or These specifications], including the designs incorporated herein, is [are] an instrument of professional service prepared for use in connection with the project identified hereon under the conditions existing on [date]. Any use, in whole or in part, for any other project without written authorization of [CONSULTANT's name] shall be at the user's sole risk."

7. Errors and Omissions

Without limiting AGENCY's other available remedies, if a construction change order is required as a proximate result of an error or omission of CONSULTANT in the preparation of construction or survey documents pursuant to this contract, regardless of whether or not such error or omission was the result of negligence, the necessary amendment or supplement to the construction documents required for such change order shall be made by CONSULTANT at no additional charge to AGENCY.

8. Correction of Work; Withholding of Payment

AGENCY may require CONSULTANT to correct Work performed by CONSULTANT that does not conform to the requirements and professional standards of this contract until the Work conforms to said requirements and standards at no additional cost to AGENCY. AGENCY may withhold payment for disputed Work until CONSULTANT correctly performs the Work or the dispute is otherwise resolved in accordance with this contract. If the nature of the nonconforming Work is such that CONSULTANT cannot correct it, AGENCY may reduce the CONSULTANT's compensation to reflect the reduced value of the Work received by AGENCY. If CONSULTANT fails to promptly correct nonconforming Work, AGENCY may have the work performed by a third party in conformance with the requirements and professional standards of this contract and charge CONSULTANT, or withhold from payments due CONSULTANT, any costs AGENCY incurs that are directly related to the performance of the corrective work. AGENCY shall not unreasonably withhold or reduce payment for CONSULTANT's Work under this section.

9. Subconsulting

With the prior written consent of AGENCY, CONSULTANT may engage the professional services of subconsultants for the performance of a portion of the Work ("Subconsultants"). CONSULTANT shall be fully responsible for all Work performed by Subconsultants which must be performed in accordance with all terms and conditions of this contract. All insurance requirements set forth in Section 13, "Insurance Requirements", below, shall apply to each Subconsultant, except to the extent such requirements are

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modified or waived in writing by AGENCY. CONSULTANT shall ensure that each Subconsultant obtains and keeps in force and effect during the term of this contract the required insurance.

10. Independent Contractor

a. No Employment Relationship. CONSULTANT is an independent contractor, and no relationship of employer and employee is created by this contract. Neither CONSULTANT nor any of the persons performing services for CONSULTANT pursuant to this contract, whether said person be a principal, member, partner, officer, employee, agent, volunteer, associate, Subconsultant or otherwise of CONSULTANT, will have any claim under this contract or otherwise against AGENCY for any salary, wages, sick leave, vacation pay, retirement, social security, workers' compensation, disability, unemployment insurance, federal, state or local taxes, or other compensation, benefits or taxes of any kind. AGENCY is not required to make any deductions from the compensation payable to CONSULTANT under the provisions of this contract. CONSULTANT shall be solely responsible for self-employment Social Security taxes, income taxes and any other taxes levied against self-employed persons. CONSULTANT does not assign such obligation to AGENCY for collection or administration except as may be required by federal and state law.

b. No AGENCY Control of Means and Methods of Performance. Except as otherwise provided in this contract, AGENCY will have no control over the means or methods by which CONSULTANT will perform services under this contract, provided, however, that CONSULTANT will perform services hereunder and function at all times in accordance with approved methods of practice in the professional specialty of CONSULTANT.

c. Third Parties Employed by CONSULTANT. If, in the performance of this contract, any third parties (including, without limitation, Subconsultants) are employed by CONSULTANT, such third parties will be entirely and exclusively under the direction, supervision and control of CONSULTANT. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging, and other applicable requirements of law will be the responsibility of and determined by CONSULTANT, and AGENCY will have no right or authority over such third parties or the terms of such employment, except as provided in this contract.

d. Compliance with Workers' Compensation Laws. CONSULTANT will comply with all applicable provisions of the Workers Compensation Insurance and Safety Act of the State of California (codified as amended commencing at Labor Code section 3200), including, without limitation, divisions 4 and 5 of the California Labor Code, and all amendments thereto, and all applicable similar state and federal acts or laws, and will indemnify and hold harmless AGENCY from and against all Third Party Claims (defined elsewhere herein) presented, brought or recovered against AGENCY, for or on account of any liability under any of said laws which may be incurred by reason of any services to be performed under this contract.

e. Indemnity for Claims of Employer-Employee Relationship. CONSULTANT agrees to defend, through attorneys approved by AGENCY, indemnify and hold harmless AGENCY and its boards, agencies, departments, officers, employees, agents and volunteers from and against any and all Third Party Claims (defined elsewhere herein) made against AGENCY based upon any contention by any third party that an employer-employee relationship exists by reason of this contract. CONSULTANT further agrees to hold AGENCY harmless from and to compensate AGENCY for any Third Party Claims against AGENCY for payment of state or federal income or other tax obligations relating to CONSULTANT's compensation under the terms of this contract. CONSULTANT will not settle or otherwise compromise a Third Party Claim covered by this subsection without AGENCY's advance written approval. This subsection does not apply to any penalty imposed by any governmental agency that is not caused by or the fault of CONSULTANT.

11. Duty of Loyalty to Agency; Financial Conflicts of Interest

a. CONSULTANT owes AGENCY a duty of undivided loyalty in performing the Work under this contract, including the obligation to refrain from having economic interests and participating in activities

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that conflict with AGENCY's interests with respect to the Work. CONSULTANT shall take reasonable measures to ensure that CONSULTANT, and its principals, officers, employees, agents and Subconsultants do not possess a financial conflict of interest with respect to the Work. CONSULTANT shall promptly inform AGENCY of any CONSULTANT financial interest that could reasonably be interpreted as creating a conflict of interest with respect to the Work.

b. CONSULTANT acknowledges that the California Political Reform Act ("Act"), Government Code section 81000 et seq., provides that principals, officers, employees and agents of consultants retained by a public agency may be deemed "public officials" subject to the Act if they make or advise AGENCY on decisions or actions to be taken by AGENCY. To the extent AGENCY determines that the Act applies to CONSULTANT or its principals, officers, employees or agents, each designated person shall abide by the Act, including the requirement for public officials to prepare and file statements disclosing specified economic interests, as directed by AGENCY. In addition, CONSULTANT acknowledges and shall abide by the contractual conflict of interest restrictions imposed on public officials by Government Code section 1090 et seq.

c. During the term of this contract CONSULTANT shall not employ or compensate AGENCY's current employees.

12. Defense and Indemnification

CONSULTANT agrees to defend, through attorneys approved by AGENCY, indemnify and hold harmless AGENCY and the County of Ventura (if not defined as AGENCY) and their boards, agencies, departments, officers, employees, agents and volunteers (collectively, "Indemnitee") from and against any and all claims, lawsuits, judgments, debts, demands and liability (including attorney fees and costs) (collectively, "Third Party Claims"), including, without limitation, those arising from injuries or death of persons and/or damage to property, that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of CONSULTANT or its principals, officers, employees, agents or Subconsultants in the performance of this contract. This indemnity provision does not apply to Third Party Claims arising from the sole negligence or willful misconduct of Indemnitee, or to the extent caused by the active negligence of Indemnitee. CONSULTANT shall not settle or otherwise compromise a Third Party Claim covered by this section without AGENCY's advance written approval.

13. Insurance Requirements

- a. Without limiting CONSULTANT's duty to defend and indemnify AGENCY as required herein, CONSULTANT shall, at CONSULTANT's sole cost and expense and throughout the term of this contract and any extensions hereof, carry one or more insurance policies that provide at least the following minimum coverage:
 - i. Commercial general liability insurance shall provide a minimum of \$1,000,000.00 coverage for each occurrence and \$2,000,000.00 in aggregate, with coverage to include bodily injury, property damage and completed operations.
 - ii. Business automobile liability insurance for any CONSULTANT owned vehicles, with a minimum combined single limit of \$1,000,000.00 for each accident and \$2,000,000 aggregate. Automobile liability insurance is not required if CONSULTANT does no traveling in performing the Work.
 - iii. Workers' compensation insurance as required by the State of California with statutory limits, and employer's liability insurance coverage with minimum limit of \$1,000,000.00 per accident or claim. This workers' compensation insurance requirement may only be waived by AGENCY in writing if CONSULTANT is a sole proprietor with no employees and CONSULTANT provides AGENCY with evidence of such before commencing any work under the contract.

ANNUAL PROFESSIONAL SERVICES CONTRACT

- iv. Professional liability (errors and omissions) insurance shall provide a minimum of \$1,000,000.00 coverage per claim and \$2,000,000.00 in annual aggregate coverage.

If CONSULTANT maintains higher limits than the minimums shown above, AGENCY requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to AGENCY.

- b. With respect to any coverage written on a "claims made" basis, CONSULTANT shall, for three years after the date when this contract is terminated or completed, maintain such policy with a retroactive date that is on or before the start date of contract services or purchase an extended reporting period endorsement (tail coverage). AGENCY may withhold final payments due until satisfactory evidence of the tail coverage is provided by CONSULTANT to AGENCY. Such policy shall allow for reporting of circumstances or incidents that may give rise to future claims.
- c. CONSULTANT shall notify AGENCY immediately if CONSULTANT's general aggregate of insurance is exceeded by valid litigated claims in which case additional levels of insurance must be obtained to maintain the above-stated requirements. All required insurance shall be written by a financially responsible company or companies authorized to do business in the State of California. CONSULTANT shall notify AGENCY of any and all policy cancellations within three working days of the cancellation.
- d. The commercial general liability policy shall name AGENCY and the County of Ventura (if not defined as AGENCY) and their respective officials, employees, and agents as additional insureds ("Additional Insureds"). All required insurance shall be primary coverage as respects the Additional Insureds, and any insurance or self-insurance maintained by Additional Insureds shall be in excess of CONSULTANT's insurance coverage and shall not contribute to it. Coverage shall apply separately to each insured, except with respect to the limits of liability, and an act or omission by one of the named insureds shall not reduce or avoid coverage to the other named insureds. Additional Insured coverage shall include both ongoing and completed operations. In the case of policy cancellation, AGENCY shall be notified by the insurance company or companies as provided for in the policy.
- e. CONSULTANT hereby waives all rights of subrogation against AGENCY, the County of Ventura, all special districts governed by the Board of Supervisors, and each of their boards, directors, employees and agents for losses arising directly or indirectly from the activities or Work under this contract. The commercial general liability, automobile liability and workers' compensation policies shall contain a provision or endorsement needed to implement CONSULTANT's waiver of these rights of subrogation.
- f. Prior to commencement of the Work, CONSULTANT shall furnish AGENCY with certificates of insurance and endorsements effecting all coverage required hereunder. Copies of renewal certificates and endorsements shall be furnished to AGENCY within 30 days of the expiration of the term of any required policy. CONSULTANT shall permit AGENCY at all reasonable times to inspect any policies of insurance required hereunder.
- g. Each insurance policy required above shall state that coverage shall not be canceled except with notice to AGENCY.

14. Claims and Disputes

- a. Administrative Review. Prior to filing a complaint in arbitration against AGENCY seeking payment of money or damages regarding work under this contract, an extension of contract time, or an interpretation or adjustment of the terms of this contract, including "pass-through" claims asserted by

ANNUAL PROFESSIONAL SERVICES CONTRACT

CONSULTANT on behalf of a Subconsultant (collectively referred to hereinafter as “claim”), CONSULTANT shall exhaust its administrative remedies by attempting to resolve the claim with AGENCY’s staff in the following sequence: 1) Project Manager, 2) Deputy Director of Public Works (“Department Director”) and 3) Director of Public Works Agency (“Agency Director”). CONSULTANT shall initiate the administrative review process no later than 30 days after the claim has arisen by submitting to the Project Manager a written statement describing each claim and explaining why CONSULTANT believes AGENCY is at fault, as well as all correspondence and evidence regarding each claim. CONSULTANT may appeal the decision made by the Project Manager to the Deputy Director, and may appeal the decision made by the Deputy Director to the Agency Director, provided that AGENCY receives such appeal in writing no later than seven days after the date of the decision being appealed. If CONSULTANT does not appeal a decision to the next level of administrative review within this seven-day period, the decision shall become final and binding and not subject to appeal or challenge.

b. Arbitration. All CONSULTANT claims not resolved through the administrative review process stated above shall be resolved by arbitration unless AGENCY and CONSULTANT agree in writing, after the claim has arisen, to waive arbitration and to have the dispute litigated in a court of competent jurisdiction. Arbitration shall be pursuant to article 7.1 (commencing with section 10240) of chapter 1 of part 2 of the Public Contract Code and the regulations promulgated thereto, chapter 4 (commencing with section 1300) of division 2 of title 1 of the California Code of Regulations (collectively, “Rules for Public Works Contract Arbitrations”). Arbitration shall be initiated by a complaint in arbitration prepared, filed and served in full compliance with all requirements of the Rules for Public Works Contract Arbitrations. CONSULTANT consents and agrees that AGENCY may join it as a party to any arbitration involving third party claims asserted against AGENCY arising from or relating to any Work performed by CONSULTANT hereunder.

15. Compliance with Laws and Regulations; Permits and Licenses

CONSULTANT shall perform its obligations hereunder in compliance with all applicable federal, state, and local laws and regulations. CONSULTANT certifies that it possesses and shall continue to maintain or shall cause to be obtained and maintained, at no cost to AGENCY, all approvals, permissions, permits, licenses, and other forms of documentation required for it and its principals, officers, employees, agents and Subconsultants to comply with all applicable statutes, ordinances, and regulations, or other laws, that apply to performance of the Work. AGENCY is entitled to review and copy all such applications, permits, and licenses which CONSULTANT shall promptly make available upon AGENCY’s request.

16. Prevailing Wage Requirements

Certain Work to be performed under this contract may be considered “public works” subject to prevailing wage, apprenticeship and other labor requirements of Labor Code division 2, part 7, chapter 1, section 1720 et seq. Such public works may include work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work. CONSULTANT is solely responsible for determining whether the Work, or any portion thereof, is subject to said requirements, and for complying with all such requirements that apply. All such public works projects are subject to compliance monitoring by the California Department of Industrial Relations (DIR). AGENCY has obtained from the DIR general prevailing wage determinations for the locality in which the Work is to be performed that are on file with AGENCY’s Public Works Agency and are available upon request. CONSULTANT is responsible for posting job site notices as prescribed by regulation pursuant to Labor Code section 1771.4(a)(2). CONSULTANT acknowledges that it is aware of state and federal prevailing wage and related requirements, and shall comply with these requirements to the extent applicable to the Work, including, without limitation, Labor Code sections 1771 (payment of prevailing wage), 1771.1 (registration with DIR) and 1771.4 (submission of certified payrolls to Labor Commissioner).

17. Miscellaneous

a. Entire Understanding. This contract is an integrated agreement and constitutes the final expression, and the complete and exclusive statement of the terms of, the parties’ agreement with respect to the

ANNUAL PROFESSIONAL SERVICES CONTRACT

subject matter hereof. This contract supersedes all contemporaneous oral and prior oral and written agreements, understandings, representations, inducements, promises, communications or warranties of any nature whatsoever, by either party or any agent, principal, officer, partner, employee or representative of either party, with respect to the subject matter hereof. Without limiting the foregoing, CONSULTANT acknowledges that no representation, inducement, promise or warranty not contained in this contract will be valid or binding against AGENCY.

- b. No modification, waiver, amendment or discharge of this contract shall be valid unless the same is in writing and signed by duly-authorized representatives of both parties.
- c. Nonassignability. CONSULTANT will not assign this contract or any portion thereof to a third party without the prior written consent of AGENCY, and any attempted assignment without such prior written consent will be null and void and will be cause, at AGENCY's sole and absolute discretion, for immediate termination of this contract. AGENCY may withhold its consent to assignment at its discretion. In the event AGENCY consents to assignment, the obligations of CONSULTANT hereunder shall be binding on CONSULTANT's assigns.
- d. Third Party Beneficiaries. Except for indemnitees under sections 8 and 14.e above, this contract does not, and the parties to this contract do not intend to, confer a third party beneficiary right of action on any third party whatsoever, and nothing set forth in this contract will be construed so as to confer on any third party a right of action under this contract or in any manner whatsoever.
- e. Time limits stated herein are of the essence.
- f. Governing Law; Venue. This contract is made and entered into in the State of California and shall, in all respects, be interpreted, governed and enforced in accordance with the laws of the State of California applicable to contracts entered into and fully to be performed therein. The venue for any action, suit, arbitration, judicial reference or other proceeding concerning this contract shall be in Ventura County, California.
- g. All notices, requests, claims, and other official communications under the contract shall be in writing and transmitted by one of the following methods:
 - (1) Personal delivery.
 - (2) Facsimile where receipt is confirmed.
 - (3) Courier where receipt is confirmed.
 - (4) Registered or certified mail, postage prepaid, return receipt requested.

Such notices and communications shall be deemed given and received upon actual receipt in the case of all except registered or certified mail; and in the case of registered or certified mail, on the date shown on the return receipt or the date delivery during normal business hours was attempted. All notices and communications shall be sent to CONSULTANT at the current address on file with AGENCY for contract payment purposes, and shall be sent to AGENCY as follows:

Public Works Agency
County of Ventura L#1670
800 South Victoria Avenue
Ventura, CA 93009-1670
Facsimile: (805) 677-8762

Either party may change its contact information by providing written notice of the change to the other party in accordance herewith.

- h. Further Actions. The parties hereto agree that they will execute any and all documents and take any and all other actions as may be reasonably necessary to carry out the terms and conditions of this contract.

ANNUAL PROFESSIONAL SERVICES CONTRACT

- i. Legal Representation. Each party warrants and represents that in executing this contract, the party has relied upon legal advice from attorneys of the party's choice (or had a reasonable opportunity to do so); that the party has read the terms of this contract and had their consequences (including risks, complications and costs) completely explained to the party by the party's attorneys (or had a reasonable opportunity to do so); and that the party fully understands the terms of this contract. Each party further acknowledges and represents that the party has executed this contract freely and voluntarily without the undue influence of any person, and the party has not relied on any inducements, promises or representations made by any person not expressly set forth in this contract.
- j. No Waiver. Failure by a party to insist upon strict performance of each and every term, condition and covenant of this contract shall not be deemed a waiver or relinquishment of the party's rights to enforce any term, condition or covenant.
- k. Partial Invalidity. If any provision of this contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the parties intend, and it shall be so deemed, that the remaining provisions of this contract shall continue in full force without being impaired or invalidated in any way. If such provision is held to be invalid, void or unenforceable due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
- l. Interpretation of Contract. For purposes of interpretation, this contract shall be deemed to have been drafted by both parties, and no ambiguity shall be resolved against any party by virtue of the party's participation in the drafting of the contract. Accordingly, Civil Code section 1654 shall not apply to the interpretation of this contract. Where appropriate in the context of this contract, the use of the singular shall be deemed to include the plural, and the use of the masculine shall be deemed to include the feminine and/or neuter.
- m. Counterparts. This contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same contract.

CONSULTANT:**AGENCY:**

 Signature

 Director Public Works Agency

 Printed name and title

 Signature

 Printed name and title

 600099

 Vendor Number

ANNUAL PROFESSIONAL SERVICES CONTRACT

EXHIBIT A – Scope of Work

All Work Orders

1. Services. CONSULTANT shall provide services as stipulated in the work orders issued pursuant to this contract.

2. Work Orders. No work shall be performed under this contract except on receipt of a written work order signed by the DIRECTOR or his authorized Deputy, as indicated in Exhibit D (“Work Order”). CONSULTANT is not authorized to perform any work on this contract that has not been ordered in writing as described above. CONSULTANTS performing work without prior written authorization in the form of a properly executed Work Order do so at their own risk and AGENCY is not obligated to pay for any services performed for which a Work Order was not issued in advance. CONSULTANT retains the right to refuse to accept any Work Order issued pursuant to this contract.

3. Changes. No changes shall be made to an existing Work Order. If additional services are required, then a separate Work Order will be issued for such work.

4. No Guarantee of Work. This contract does not guarantee a specific amount of work to the CONSULTANT.

Work Orders Involving Design Services

Consultant’s Guide. CONSULTANT shall follow the procedures and comply with the requirements contained in the *Consultant’s Guide to Ventura County Procedures* on all work involving design services. A copy of the guide is available upon request from the Public Works Agency or can be downloaded from AGENCY’s web site at http://pwaportal.ventura.org/ESD/ESD/StandardsandManuals/docs/Consultants_Guide_to_VC_Procedures.pdf.

Work Orders Involving Map Checking Services

CONSULTANT shall check maps in accordance with AGENCY’s “*Guide for the Preparation of Tract Maps, Parcel Maps, and Records of Survey/Corner Records*”, dated July 2007, which shall be furnished to CONSULTANT prior to or with the issuance of the first Work Order for such services. The guide can also be downloaded from AGENCY’s web site at http://pwaportal.ventura.org/ESD/CSO/CSO_One-Stop_Permitting/docs/mapguide.pdf.

The following reference material submitted with maps shall be furnished to CONSULTANT to assist in the checking of maps and shall be returned to AGENCY after each check:

1. Preliminary title report, including description of land being divided (for tract maps and parcel maps).
2. Preliminary subdivision guarantee (for tract maps and parcel maps).
3. Copies of all deeds, maps, and documents used in the preparation of the map.
4. Copies of calculations showing closure and area.
5. Evidence of compliance with section 66436(a)(3)(A) of the Subdivision Map Act (when required).
6. Tentative map, tentative map approval, and conditions of approval (for tract maps and parcel maps).

CONSULTANT shall mark the check print in red indicating the recommended corrections and/or additions, and in green indicating the items that are correct.

ANNUAL PROFESSIONAL SERVICES CONTRACT

CONSULTANT shall prepare a memo, addressed to the surveyor preparing the map, indicating the major recommended corrections.

CONSULTANT shall complete a checklist, copied from or similar to the checklist in section 7 (for records of survey) or section 8 (for tract maps and parcel maps) of the guide. Marked-up check print, memo and checklist shall be forwarded to AGENCY along with the reference package.

The boundary analysis for all maps shall be accomplished by properly licensed personnel who have been approved in advance by AGENCY to perform boundary analysis and are specifically named in the Work Order ordering the boundary analysis.

CONSULTANT shall provide AGENCY with a current resume for each person providing map checking services under this contract for AGENCY review and approval prior to any work being performed by that person under this contract.

Work Orders Involving Inspection Services

1. Duties. Perform professional construction inspection services. Such services shall consist of technical, on-site inspection of the materials, structures, equipment and workmanship and methods used by the construction contractor to verify that a project is constructed in compliance with the construction documents and according to good construction practices. CONSULTANT shall observe and report to the Project Manager any activities where in CONSULTANT's professional opinion the construction contractor is using or professing to use construction methods that may adversely affect the finished work. However, conduct of construction contractor's safety program as well as selection of construction contractor's means and methods shall remain the exclusive responsibility of the construction contractor. CONSULTANT's construction inspection services shall include the following:

- a. Become thoroughly familiar with all contract documents, applicable codes and safety regulations related to the work being inspected.
- b. Provide on-site observation of the progress and quality of work for the construction contract. Advise the construction contractor and the Project Manager of any observed deviations from the construction documents in a timely manner so as to minimize delay in the progress of the work.
- c. Inspect and observe the construction contractor's activities to verify that the work complies with the construction documents. Notify the Project Manager and the construction contractor if the construction contractor's work is not in compliance with construction documents including all addendums and change orders. Issue a stop work notice on all non-conforming work for which the contractor is not taking actions to correct. Notify the Project Manager of any failure of the construction contractor to take measures to place such work in compliance.
- d. Inspect and observe the materials and equipment being incorporated into the work to verify in CONSULTANT's professional opinion that they are handled, stored and installed properly and adequately and are in compliance with the construction documents. Report to the Project Manager regarding these activities.
- e. Maintain a daily record of labor, materials, and equipment used to perform work being performed under a time and materials change order.
- f. Identify problems encountered in accomplishing the work and recommend the appropriate action to the Project Manager for resolution of problems to minimize impact on timely completion of the work.

ANNUAL PROFESSIONAL SERVICES CONTRACT

- g. Attend and participate with the Project Manager and the construction contractor(s) in all regular meetings and inspections as set forth in the construction documents and special meetings when reasonably requested by the Project Manager. Assist the Project Manager in responding to impacts and concerns of construction on citizens.
- h. Attend and participate at all meetings held at the job site regarding current or planned construction activities. Provide a report to the Project Manager on such meetings when the Project Manager is unable to attend.
- i. Prepare and submit a report of daily construction activities. Maintain a daily progress diary to record work performed and significant job events.
- j. Assemble and maintain notes, comments, sketches and supportive data relative to a project in order to facilitate the revisions of tracings to conform to the construction records. Provide a copy of the daily progress reports to the Project Manager.
- k. Maintain a log of tests and inspections required by the contract. Observe and record the results of such tests including the date of the test, section of the specification requiring the test, and results of the test. Provide a copy of the testing log to the Project Manager at least monthly.
- l. When persons representing public agencies having jurisdiction over the project visit the job site, accompany such persons during their trips through the project, record the outcome of these inspections and report same to the Project Manager.
- m. Schedule survey staking by AGENCY crews as requested by the construction contractor.
- n. Notify the Project Manager of any conditions involving the project schedule, price, quality of workmanship, safety or compliance with the construction contract plans and specifications that are not covered by this Contract.

2. Records. CONSULTANT shall maintain the following records:

- a. Job site copies of all construction documents including plans, specifications, addenda, shop drawings, change orders and additional drawings issued subsequent to the award of the construction contract.
- b. Maintain a daily diary record of number of contractor employees and hours worked on the job site, weather conditions, list of visiting officials and jurisdiction, daily activities, decisions, observations of general construction activities, and detailed specific observations of activities such as testing or specialty inspections.
- c. Record names, addresses and telephone numbers of all contractors and subcontractors.
- d. Provide photographs recording conditions at the site before the start of work and at frequent intervals during the construction period. Additional photographs shall be taken of all areas of concern and areas that may involve potential change orders or unsatisfactory work. Each photograph shall be labeled with the date taken and description of what is in the photograph. Provide the Project Manager with a hard copy and digital file of the photograph.

ANNUAL PROFESSIONAL SERVICES CONTRACT

3. Submittals.

- a. Receive submittal samples, which are required to be furnished at the job site; record date received and from whom; notify the Project Manager of their readiness for examination; record Architect's approval or rejection; and maintain custody of approved samples.
- b. During the course of the project, collect guarantees, warranties, certificates, and maintenance and operations manuals from the construction contractor. After final inspection, confirm all final submittal requirements have been met and provide such submittals to the Project Manager.

4. Partial Acceptance. Photographically document the condition of any work that is accepted by AGENCY prior to 100% completion of the work by the construction contractor. Photographically document any accepted work that is damaged prior to 100% acceptance and investigate to determine the cause of the damage. Provide a report on the damage with findings and conclusions to the Project Manager.

5. Payments to Contractor. Review with the construction contractor the payment estimate to verify quantities of accepted work and submit the draft payment estimate to the Project Manager.

6. Safety. Immediately stop all work that in CONSULTANT's professional opinion creates an imminent danger to life, limb, or property and notify the Project Manager immediately. Alert the construction contractor to all suspected violations of state or federal safety laws. If in CONSULTANT's professional opinion such a violation exists and the construction contractor does not take action to correct the violation, then CONSULTANT shall issue a stop work notice and immediately notify the Project Manager.

7. Limitations of Authority. CONSULTANT is not authorized to perform any of the following unless expressly authorized to do so in this contract or in writing by the Project Manager:

- a. Authorize deviations from the construction contract documents.
- b. Agree to extra payment to the construction contractor for any reason.
- c. Direct the construction contractor in any way with regard to means and methods.
- d. Provide labor, materials, or equipment to perform work which is the construction contractor's responsibility to provide.
- e. Advise on, or issue directives relative to, any aspect of the construction technique or sequence, unless a specific technique or sequence is called for in the specifications.
- f. Approve submittals, including shop drawings.
- g. Provide answers on Requests For Information back to the construction contractor without the Project Manager's approval.
- h. Engage in any activity which might be construed to be a conflict of interest.

End of Exhibit

ANNUAL PROFESSIONAL SERVICES CONTRACT

EXHIBIT B – Time Schedule

All work under this contract shall be completed within the time limit indicated in the work order and progress shall be maintained in accordance with the schedule for submittal of work as shown in the work order. If CONSULTANT is delayed because of acts or omissions of AGENCY, this shall be documented by CONSULTANT and submitted weekly to AGENCY for approval of a suspension of the contract time.

No Work Order under this contract shall be issued before July 1, or after June 30, . All Work under this contract shall be completed by December 31, .

End of Exhibit

ANNUAL PROFESSIONAL SERVICES CONTRACT

EXHIBIT C – Fees and Payments

Fees

AGENCY agrees to pay CONSULTANT an hourly rate compensation for actual hours of services performed at the rates specified in the Fee Schedule table below up to the maximum total amount available under this contract. AGENCY will not pay any fees for items not appearing in the Fee Schedule table. The aggregate total amount of all fees paid for all work orders issued under this contract shall not exceed \$0.00.

1. Fee Schedule

Item	Description	Unit	Rate			Travel ² Expenses
			Regular ¹	Prevailing ¹	Travel ¹	

Notes: 1) The rates above include all routine general and administrative expenses including but not limited to: phone calls, travel within Ventura County, incidental photocopying, and office equipment unless otherwise expressly listed in the Fee Schedule above.

2) The word "Yes" in the Travel Expenses column above indicates that reimbursement for travel within Ventura County is authorized for the position described by that item.

2. Travel Expenses

Reimbursement for travel within Ventura County is only authorized as identified in the Fee Schedule in this Exhibit. Reimbursement for travel outside Ventura County is authorized only when such travel is approved in advance by the Project Manager. AGENCY shall only reimburse CONSULTANT for transportation, lodging, and meal expenses that consistent with the policies and amounts approved for County employees as defined by policy number Chapter VII(C)-1, *Reimbursement of Employees County Business Expenses*, in the County's Administrative Policy Manual (latest edition).

3. Subconsulting

The expense for outside professionals such as architects and engineers retained by CONSULTANT to perform work as part of a Work Order may be reimbursed by AGENCY at cost to CONSULTANT, as evidenced by a receipt, with a mark-up of 0%. Reimbursement for subcontracting shall be limited to 25% of the total amount of the Work Order.

4. Other Expenses

Other expenses directly related to deliverables under a Work Order such as blueprinting, copying, and other professional services that are not performed in-house by CONSULTANT and are not listed in the Fee Schedule above will be reimbursed by AGENCY at cost to CONSULTANT, as evidenced by a receipt, without mark-up.

5. Overtime

Overtime pay not to exceed the hourly rate specified in this exhibit plus 50% of the hourly rate paid to that employee may be paid by AGENCY for CONSULTANT employees when CONSULTANT is required to pay its employees overtime due to law, regulation, company policy, or union agreement, AGENCY has authorized the overtime in advance in writing and that authorization is included with the invoice requesting the overtime payment.

Payments

Payments will be made monthly by AGENCY upon presentation of a properly completed County of Ventura's Consultant Services Invoice Form by CONSULTANT that has been approved by AGENCY. The invoice shall include, at a minimum, personnel time records for work actually

ANNUAL PROFESSIONAL SERVICES CONTRACT

completed at the rates specified in this exhibit, copies of written authorizations for overtime, and receipts for all other items authorized by this exhibit for which payment is being requested. A separate invoice shall be submitted for each individual work order.

CONSULTANT shall submit all requests for payments to:

Public Works Agency
County of Ventura L#1670
800 South Victoria Avenue
Ventura, CA 93009-1670

Timely invoicing by CONSULTANT is required. Delays in invoicing for services performed increases the management effort required by AGENCY to ensure accurate payments to CONSULTANT and manage project budgets. Accordingly, CONSULTANT shall submit a properly completed invoice no later than 60 calendar days after the services which are the subject of the invoice were performed. An invoice received by AGENCY more than 60 calendar days after the services were performed shall be reduced by 5% to compensate AGENCY for the additional management costs. Additionally, since increases in administrative costs and budgetary problems caused by late invoicing correlate to the length of delay in invoicing, there will be an additional 5% reduction in compensation for each additional 30-calendar-day period beyond 60 days between the date the services were performed and the submission of the invoice for those services.

CONSULTANT shall submit a final invoice form for each work order within 60 days of the earliest of the following events: 1) completion and acceptance by AGENCY of all work required by that work order, 2) termination of the contract, or 3) December 31, .

End of Exhibit

ANNUAL PROFESSIONAL SERVICES CONTRACT

EXHIBIT D – Authority to Issue Work Orders

The Director of Public Works, County Surveyor and their authorized deputies are authorized to issue necessary work orders in accordance with the Board action approving this contract and subject to the following limitations, depending on class.

For the limited purpose of segregating contracts by class, approval includes any positive action taken by the Board such as approving a project budget or considering an environmental document for the project.

The limitations by class are:

Class IA Work orders for planning construction projects not yet approved by the Board of Supervisors.

All Class IA work orders, together with individual Class IA contracts, for a single project may not exceed an aggregate total of \$35,000.

Class IB Work orders necessary to:

- (1) Carry out general county functions (unrelated to specific projects);
- (2) Provide technical assistance to the County Counsel on matters involving ongoing or potential litigation; or
- (3) Plan or manage a project approved by the Board of Supervisors.

Each Class IB work order is limited to \$100,000.

End of Exhibit

TYPICAL EXHIBIT A FOR ANNUAL CONTRACTS EXHIBIT A

SCOPE OF WORK AND SERVICES

Consultant shall provide professional **land surveying and record map checking services** as stipulated in the work orders issued pursuant to this contract. Attached Exhibit A-1 is hereby incorporated as part of the scope of work and services.

Agency retains the right to terminate any work order for any reason prior to completion by notifying consultant in writing and by paying charges accumulated prior to such termination.

Consultant retains the right to refuse any work order issued pursuant to this contract. Consultant retains the right to terminate this contract at any time, provided all work orders accepted by him have been completed.

This contract does not guarantee a specific amount of work to the consultant.

No work shall be performed under this contract except on receipt of a work order personally signed by a PWA official authorized to do so as indicated in Exhibit E.

TYPICAL EXHIBIT A-1 FOR ANNUAL CONTRACTS EXHIBIT A-1

RECORD MAP CHECKING

Consultant shall check maps in accordance with the Agency's "Guide for the Preparation of Tract Maps, Parcel Maps and Records of Survey/Corner Records", dated July 1980 which shall be furnished to Consultant subsequent to the execution of this contract.

The following reference material submitted with maps shall be furnished to Consultant to assist in the checking of maps and shall be returned to Agency after each check:

1. Preliminary title report, including description of land being divided.
2. Preliminary Subdivision Guarantee.
3. Copies of all deeds, maps and documents used in the preparation of the map.
4. Copies of calculations showing closure and area.
5. Evidence of compliance with Section 66436 (a) (3) (A) of the Subdivision Map Act.

The Consultant shall mark the check print in red indicating the recommended corrections and/or additions, and in green indicating the items that are correct.

Consultant shall also prepare a memo, addressed to the surveyor preparing the map, indicating the major recommended corrections. Marked-up check print and memo shall be forwarded to the Agency.

The boundary analysis for all maps shall be accomplished by the following person(s):

Any person performing boundary analysis under this contract, other than the above, must first be approved, in writing, by the Agency. The approval may be for a single assignment or for all assignments that are performed under this contract.

Consultant shall provide Agency current resume for each person rendering professional services under this contract. Resumes shall be submitted to the Agency prior to any work being performed.

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**County Of Ventura – Public Works Agency
Annual Consulting Services Contract Work Order PW12-001**

Consultant:	Date:
Address:	Contract No: AE12-A01
	Work Order No: PW12-001
	Type Of Service:
WO Title:	
Location:	

A. Scope. Consultant shall perform the following described work per the Contract:

[enter the description of the work]

B. Schedule. Work performed under this Work order shall be completed per the following schedule:

[enter the details of the schedule]

C. Fees and Payments. The services on this work order will be paid on a time and materials basis using the rates specified in the annual services contract identified herein. The maximum fee for services performed under this Work Order shall not exceed \$0.00.

Send all bills with Public Works Agency, Engineering Services Division
invoice form to: 800 South Victoria Avenue, Ventura, CA, 93009-1670

The **Project Manager** for this work order is: Telephone: 805-

PM's address: FAX: 805-

Send all reports and correspondence (except invoices) to the Project Manager at the above address.

The Project Manager is responsible for the administration of the technical aspects of this work order.

Project	Fund	Agency	Org	Activity	Object	Comm	Amount	Approval

Authority: Board Resolution of November 3, 1998

Work Order Classification: IA

Authorized by:

Director, Public Works Agency

Date

Distribution: Consultant (Original); Engineering Services-Contract Tech; Project Manager; Auditor/Controller-
ACSC-WO.0900 Accounts Payable; PWA-CSD-Fiscal Services; Client, File.

**County Of Ventura – Public Works Agency
Annual Consulting Services Contract**

Instructions

Contract Language - ACWOs form part of the contract with the Consultant and must be written in contract language. Don't use the term Exhibit to describe an attachment to the ACWO as they can be confused with exhibits to the Annual Contract.

Review Annual Contract - ACWOs cannot change the Annual Contract. The person preparing the ACWO should review the Annual Contract to be sure that the services requested are included in Exhibit A to the contract. The fee basis is contained in Exhibit C to the contract and cannot be changed by the ACWO. The ACWO can only supply the details of the work to be done, the time constraints on performance and the maximum fee.

Maximum Fee - The maximum fee can only take one of two forms as described in PPM 4.7.1.2 which says in part:

The maximum fee for services performed under this Work Order shall not exceed \$_____.

This means that the Consultant is to perform work as specified in the ACWO scope, but will not be paid more than the maximum fee and Consultant is not obligated to complete the stated scope of work for the maximum fee. Consultant is responsible to stop work so that maximum fee is not exceeded.

The maximum fee for completing all work required by this Work Order shall not exceed \$_____.

This means that Consultant is obligated to complete the scope of work stated in the ACWO and be will paid at the contract rates, but that the fee shall not exceed the maximum even if it requires more of Consultant's work."

Description of Work - The description of work to be performed may be different for the two forms of maximum fee. The description must specify the project on which the work is to be performed. The description can be included in the space provided on the ACWO form or referred to there as a numbered attachment.

For the 1st form of maximum fee, the description can be more general and may include a requirement to perform specified services on an "on call" basis.

For the 2nd form of maximum fee, the description must be precise as the Consultant is being told to perform the specified work to be paid for at the rates specified in Exhibit B to the contract and to absorb any costs that exceed the maximum fee. This maximum fee must have been agreed to by the Consultant.

The consultant's proposal shall not be used as an attachment to the ACWO.

Performance Time - The time constraints can be included in the space provided on the ACWO form or referred to there as a numbered attachment.

Contract Information

Company:		Vendor ID:
Send Payment To: Send payment to this address		Encumbrance: PWA 6500
AE Number:	Award Date:	Vendor Email:
PW Number:		Completion:
Work Order Title:		
County Proj Mgr:	Dept:	Phone:

Invoice Information

Invoice Number:	Invoice Date:	Invoice Period:
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Summary of Basic Services

Maximum Partial Payment: 95%

Task	Description	Type	Amount Authorized	Amount Completed	% Comp	Previous Invoices	Amount This Invoice
1.		T&M			0%		\$0.00
2.		T&M			0%		\$0.00
3.		T&M			0%		\$0.00
4.		T&M			0%		\$0.00
5.		T&M			0%		\$0.00
Total Basic Services =			\$0.00	\$0.00	0%	\$0.00	\$0.00
Basic Services Balance =			\$0.00				

		\$0.00	\$0.00	0%	\$0.00	\$0.00
	Total Amounts to Date	Amount Complete	Percent	Previous Invoice	This Invoice	

Notes

1. Time sheets and invoices must be submitted with all invoices

Consultant's Certification

I certify that the amounts being invoiced as entered on this form are accurate to the best of my knowledge and are in compliance with the contract identified above.

Signature	Typed Name & Title	Phone
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Agency Project Manager's Approval

I have reviewed this invoice against the contract requirements and accepted work and **APPROVE** the amounts being requested for payment.

I have reviewed this invoice against the contract requirements and **REJECT** the invoice for the reasons written on the back of this page.

This is the **FINAL PAYMENT** on this work order and request that it be **CLOSED** and the remaining funds released.

Signature	Date
-----------	------

CSD: 1) IN PWA #: _____ 2) Date of Approval: _____

APPENDIX 4 - PUBLIC WORKS AGENCY - ORGANIZATION AFFECTING CONSULTANTS

A4-1 PUBLIC WORKS AGENCY DEPARTMENTS & FUNCTIONS		
DEPARTMENT	FUNCTIONS	CONSULTANTS USED FOR
Central Services	1. Provides fiscal, personnel & computer services management for PWA. 2. Acquires, manages and disposes of real property for all county agencies.	1. Temporary staff replacements. 2. Condemnation appraisals.
Engineering Services	1. Provides project management for projects of most other county agencies. 2. Prepares & administers consultant services contracts & construction contracts for all PWA and most other county agency projects. 3. Reviews & inspects public improvements for private land development projects; administers grading ordinance for engineered grading. 4. Performs County Surveyor duties concerning land division map checking. 5. Performs control surveys and monument preservation surveys. 6. Plans photogrammetric mapping.	1. Most design & planning. 2. Some inspection. 3. Materials investigation and testing. 4. Photogrammetry & surveying 5. Staff augmentation for Map & Plan checking. 6. Special mapping services.
Transportation	1. On county road system: A. Plans, designs & inspects construction. B. Maintains roads & drainage. C. Provides traffic engineering. 2. Administers several bus routes run under contract.	1. Bridges, traffic signals and major design. 2. Materials testing.
Watershed Protection District	1. Plans, designs, inspects construction, maintains & controls the flood control facilities . 2. Coordinates with federal agencies on the Federal Flood Insurance Program and on coastal erosion control. 3. Makes & documents hydrologic measurements, makes studies, provides flood warnings. 4. Monitors ground water quality & quantity; 5. Staffs Fox Canyon Ground Water Management Agency. 6. Coordinates water importation. 7. Provides materials testing and inspecting services for Watershed Protection projects.	1. Some major design. 2. Materials testing.
Water & Sanitation	1. Manages five special districts and two County Service Areas providing water supply or wastewater facilities. 2. Promotes safe & efficient use of natural resources through waste reduction, recycling & educational programs. 3. Regulates private refuse haulers. 4. Monitoring of Construction recycling.	1. Most design. 2. Planning & Studies. 3. Materials testing 4. Staff augmentation

A4-2 COUNTY STAFF

County staff concerned with each project include the following:

Project Manager - Has overall general responsibility for project including administration of Consultant's contract, liaison between Consultant and the County, administration of the construction contract and inspection of the work.

Construction Inspector - Responsible for detailed quality inspection of work.

Materials Inspector - Materials laboratory personnel (staff or consultant) that perform compaction testing, materials plant inspection, and other sampling and testing.

Materials Engineer - The engineer (staff or consultant) designated as such.

Building Inspector - Staff member of the Resource Management Agency - Building and Safety Department, or other Inspector as required by code, that performs code inspections on buildings.

Plan Checker - Staff member of the Resource Management Agency - Building and Safety Department that performs code review of building plans. May also refer to personnel of the Fire Protection District - Fire Marshal reviewing building plans.

Tenant Department or Agency Head (where project is for another Agency or Department)
- The head of the department/agency who will use the completed facility and who establishes the function, size and general concept of the facility.

Chief Administrative Officer's Representative - Reviews program and costs and sets limitations on funds to be expended.

County Surveyor - Examines and approves subdivision maps & Records of Survey maps, and performs field surveys for County projects with assistance from staff and consultants.

Department Director - The individual heading one of the five departments shown in the table above. Each is a Deputy Director of Public Works.

Director of Public Works - The executive head of the Ventura County Public Works Agency. Also the Road Commissioner, and Engineer/Manager for several special districts.

Board of Supervisors, advised by the Director of Public Works and other appropriate County staff involved in the project, will be the final judge on the acceptability of the work.