

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

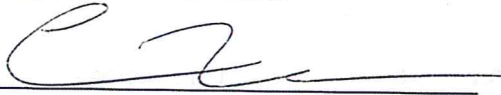
Agreement for Services of Independent Contractors for Materials Testing and Inspection Services

(Bill Tracy, x5694, Public Works, Transportation Section)

Attachment A contains the Standard Agreement used by the County for technical services and added clauses by the State Auditors; no changes will be made to the Standard Agreement language. Consultants are required to review the Standard Agreement and acknowledge their acceptance of the terms of the Standard Agreement language in the space provided below. Failure to acknowledgement acceptance of the Standard agreement language will cause the rejection of the proposal without further consideration.

TRINING, INC. acknowledges acceptance of the terms of the Standard Agreement, "Agreement for Services of Independent Contractors."

Signature: _____

A handwritten signature in black ink, appearing to be 'CZ', is written over a horizontal line.

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter County) and Twining Inc. with an address at 1879 Portola Road, Suite G, Ventura, CA 93003 (hereafter Contractor) wherein Contractor agrees to provide and County agrees to accept the services specified herein.

WHEREAS, Contractor represents that it is specially trained, skilled, experienced, and competent to perform the special services required by County and County desires to retain the services of Contractor pursuant to the terms, covenants, and conditions herein set forth;

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

1. DESIGNATED REPRESENTATIVE

Pat Santomauro at phone number (805)-681-5697 is the representative of County and will administer this Agreement for and on behalf of County. Jeff Tawakoli at phone number (805)-644-5100 is the authorized representative for Contractor. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To County: Pat Santomauro, Santa Barbara County Public Works Department, 4417 Cathedral Oaks Road, Santa Barbara CA 93110, fax (805)-681-4991

To Contractor: Jeff Tawakoli, Twining Inc. 1879 Portola Road, Suite G, Ventura, CA 93003, fax (805)-644-5179

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

Contractor agrees to provide services to County in accordance with Exhibit A attached hereto and incorporated herein by reference.

4. PERFORMANCE PERIOD

A. This Agreement shall go into effect on (June 4, 2019), contingent upon approval by County, and Contractor shall commence work after notification to proceed by County's designated representative. The contract shall end on (June 30, 2021), unless extended by contract amendment or unless earlier terminated.

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

5. COMPENSATION OF CONTRACTOR

In full consideration for Contractor's services, Contractor shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. FEDERAL AND STATE PREVAILING WAGE RATES

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

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

- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.
- D. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code § 1771.1(a)]; no contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5; and this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

7. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowable cost(s) of individual items.
- B. Contractor also agrees to comply with federal procedures in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Super or Omni Circular)
- C. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under applicable Federal Regulations, are subject to repayment by Contractor to County.
- D. All subcontracts shall contain the above provisions.

8. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that Contractor (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to County and not as an officer, agent, servant, employee, joint venturer, partner, or associate of County. Furthermore, County shall have no right to control, supervise, or direct the manner or method by which Contractor shall perform its work and function. However, County shall retain the right to administer this Agreement so as to verify that Contractor is performing its obligations in accordance with the terms and conditions hereof. Contractor understands and acknowledges that it shall not be entitled to any of the benefits of a County employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. Contractor shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, Contractor shall be solely responsible and save County harmless from all matters relating to payment of Contractor's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, Contractor may be providing services to others unrelated to the County or to this Agreement.

9. STANDARD OF PERFORMANCE

Contractor represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, Contractor shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Contractor is engaged. All products of whatsoever nature, which Contractor delivers to County pursuant to this Agreement, shall be prepared in a manner consistent with the standards normally observed by a person practicing in Contractor's profession. Contractor shall correct or revise any errors or omissions, at County's request without additional compensation. Permits and/or licenses shall be obtained and maintained by Contractor without additional compensation.

10. SUBCONTRACTING

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between County and any subcontractor(s), and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be as fully responsible to County for the acts and omissions of its subcontractor(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor. Contractor's obligation to pay its subcontractor(s) is an independent obligation from County's obligation to make payments to the Contractor.
- B. Contractor shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by County's designated representative, except that, which is expressly identified in the approved Cost Proposal.

- C. Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to Contractor by County.
- D. Any subcontract entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subcontractors.
- E. Any substitution of subcontractor(s) must be approved in writing by County's designated representative prior to the start of work by the subcontractor(s).

11. SUBCONTRACTORS

Contractor is authorized to subcontract with a firm approved by the County Project Manager. Contractor shall be fully responsible for all services performed by its subcontractor. Contractor shall secure from its subcontractor all rights for County in this Agreement, including audit rights. Contractor shall ensure subcontractor's compliance with California Labor Code, including but not limited to the payment of prevailing wage when required.

12. EQUIPMENT PURCHASES

- A. Prior authorization in writing, by County's designated representative shall be required before Contractor enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or Contractor services. Contractor shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in Contractor's Cost Proposal and exceeding \$5,000 prior authorization by County's designated representative; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

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

- C. All subcontracts shall contain the above provisions.

13. DEBARMENT AND SUSPENSION

- A. Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that Contractor has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (non-procurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to County.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Contractor responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.
- D. Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, which certifies that Contractor or any person associated therewith in the capacity of

owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility for participation in any state or local government agency contracts. Contractor certifies that it shall not contract with a subcontractor that is so debarred or suspended.

14. TAXES

Contractor shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. County shall not be responsible for paying any taxes on Contractor's behalf, and should County be required to do so by state, federal, or local taxing agencies, Contractor agrees to promptly reimburse County for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

15. CONFLICT OF INTEREST

- A. Contractor shall disclose in writing any financial, business, or other relationship with County that may have an impact upon the outcome of this contract, or any ensuing County construction project. Contractor shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing County construction project, which will follow.
- B. Contractor hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Section.
- D. CONTRACTOR hereby certifies that neither CONTRACTOR, nor any firm affiliated with CONTRACTOR will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Except for subcontractor whose services are limited to providing surveying or materials testing information, no subcontractor who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.
- A. Contractor shall disclose in writing any financial, business, or other relationship with County that may have an impact upon the outcome of this contract, or any ensuing County construction project. Contractor shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing County construction project, which will follow.
- B. Contractor hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Section.
- D. Contractor hereby certifies that neither Contractor, its employees, nor any firm affiliated with Contractor providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Contractor further certifies that neither Contractor, nor any firm affiliated with Contractor, will bid on any construction subcontracts included within the construction contract. Additionally, Contractor certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.
- F. Except for subcontractor whose services are limited to materials testing, no subcontractor who is providing service on this contract shall have provided services on the design of any project included within this contract.

16. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

County shall be the owner of the following items incidental to this Agreement upon production, whether or not

completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. Contractor shall not release any of such items to other parties except after prior written approval of County.

Unless otherwise specified in Exhibit A, Contractor hereby assigns to County all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by Contractor pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). County shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. Contractor agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. Contractor warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. Contractor at its own expense shall defend, indemnify, and hold harmless County against any claim that any Copyrightable Works or Inventions or other items provided by Contractor hereunder infringe upon intellectual or other proprietary rights of a third party, and Contractor shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by County in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

17. NO PUBLICITY OR ENDORSEMENT

Contractor shall not use County's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. Contractor shall not use County's name or logo in any manner that would give the appearance that the County is endorsing Contractor. Contractor shall not in any way contract on behalf of or in the name of County. Contractor shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the County or its projects, without obtaining the prior written approval of County.

18. COUNTY PROPERTY AND INFORMATION

All of County's property, documents, and information provided for Contractor's use in connection with the services shall remain County's property, and Contractor shall return any such items whenever requested by County and whenever required according to the Termination section of this Agreement. Contractor may use such items only in connection with providing the services. Contractor shall not disseminate any County property, documents, or information without County's prior written consent.

19. RETENTION OF RECORDS/AUDIT

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

If federal, state or County audit exceptions are made relating to this Agreement, Contractor shall reimburse all costs incurred by federal, state, and/or County governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from County, Contractor shall reimburse the amount of the audit exceptions and any other related costs directly to County as specified by County in the notification.

20. AUDIT REVIEW PROCEDURES

A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by County's Deputy Director - Finance and Administration for Public Works.

- B. Not later than 30 days after issuance of the final audit report, Contractor may request a review by County's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by County will excuse Contractor from full and timely performance, in accordance with the terms of this contract.
- D. Contractor and subcontractor contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Contractor's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by Contractor and approved by County contract manager to conform to the audit or review recommendations. Contractor agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by County at its sole discretion. Refusal by Contractor to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

21. INDEMNIFICATION AND INSURANCE

Contractor agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

22. NONDISCRIMINATION

- A. County hereby notifies Contractor that County's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and Contractor agrees to comply with said ordinance.
- B. Statement of Compliance:
 - 1) Contractor's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Contractor has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
 - 2) During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
 - 3) The Contractor shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

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

23. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

24. PROHIBITION OF EXPENDING COUNTY, STATE OR FEDERAL FUNDS FOR LOBBYING

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

1. No state, federal or County appropriated funds have been paid, or will be paid by-or-on behalf of Contractor to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

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

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

25. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT.

Contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.) and pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). The Contractor shall promptly disclose, in writing, to the County office, to the Federal Awarding Agency, and to the Regional Office of the Environmental Protection Agency (EPA), whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of the Clean Air Act (42 U.S.C. 7401-7671q.) or the Federal Water Pollution Control Act (33 U.S.C. 1251-1387).

26. PROCUREMENT OF RECOVERED MATERIALS

Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

27. NONEXCLUSIVE AGREEMENT

Contractor understands that this is not an exclusive Agreement and that County shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Contractor as the County desires.

28. NON-ASSIGNMENT

Contractor shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of County and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

29. TERMINATION

- A. County reserves the right to terminate this contract for convenience upon thirty (30) calendar days written notice to Contractor with the reasons for termination stated in the notice. During the thirty (30) day period, Contractor shall, as directed by County, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on County from such winding down and cessation of services.
- B. County may terminate this contract with Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, County may proceed with the work in any manner deemed proper by County. If County terminates this contract with Contractor, County shall pay Contractor the sum due to Contractor under this contract prior to termination, unless the cost of completion to County exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due Contractor under this contract and the balance, if any, shall be paid to Contractor upon demand.
- C. Should County fail to pay Contractor all or any part of the payment set forth in EXHIBIT B, Contractor may, at Contractor's option, terminate this Agreement if such failure is not remedied by County within thirty (30) days of written notice to County of such late payment.
- D. The maximum amount for which the County shall be liable if this contract is terminated is \$100,000
- E. Upon termination, Contractor shall deliver to County all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by Contractor in performing this Agreement, whether completed or in process, except such items as County may, by written permission, permit Contractor to retain. Contractor shall furnish to County such financial information as in the judgment of County is necessary to determine the reasonable value of the services rendered by Contractor. In the event of a dispute as to the reasonable value of the services rendered by Contractor, the decision of County shall be final. The foregoing is cumulative and shall not affect any right or remedy which County may have in law or equity.

30. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

31. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

32. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to County is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

33. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

34. NO WAIVER OF DEFAULT

No delay or omission of County to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to County shall be exercised from time to time and

as often as may be deemed expedient in the sole discretion of County.

35. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

36. IMMATERIAL CHANGES

Contractor and County agree that immaterial changes to this Agreement such as time frame and mutually agreeable work program changes which will not result in a change to the total contract amount or to the scope of the Statement of Work may be authorized by the Public Works Director, or designee in writing, and will not constitute an amendment to the Agreement.

37. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

38. COMPLIANCE WITH LAW

Contractor shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of Contractor in any action or proceeding against Contractor, whether County is a party thereto or not, that Contractor has violated any such ordinance or statute, shall be conclusive of that fact as between Contractor and County.

39. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

40. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

41. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Contractor hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Contractor is obligated, which breach would have a material effect hereon.

42. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

43. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

CONTRACTOR SIGNATURE PAGE

Agreement for services and work to be performed by Contractor between the County and Contractor.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by County.

CONTRACTOR:

Jeff Tawakoli

Twining, Inc.

1879 Portola Road, Suite G

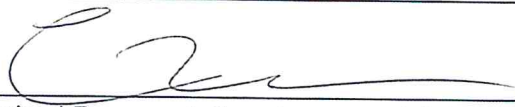
Ventura, CA 93003

License No. NOT APPLICABLE

Business Type: a California corporation

JTawakoli@twininginc.com

805.644.5100

By: 

Authorized Representative, Linas Vitkus
COO

Date: 4/10/2019

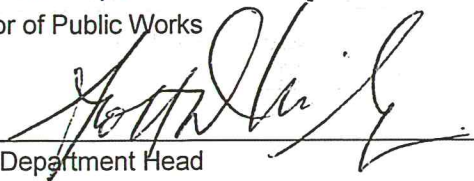
COUNTY SIGNATURE PAGE

Agreement for services and work to be performed by Contractor between the County and Contractor.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by County.

RECOMMENDED FOR APPROVAL:

Scott D. McGolpin
Director of Public Works

By: 
Department Head

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

Steve Lavignino

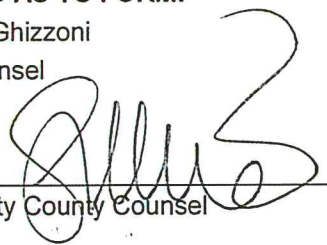
By: _____
Deputy Clerk

By: _____
Chair, Board of Supervisors

Date: _____

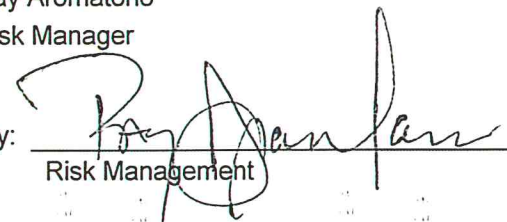
APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: 
Deputy County Counsel

APPROVED AS TO FORM:

Ray Aromatorio
Risk Manager

By: 
Risk Management

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer
Auditor-Controller

By: 
Deputy

Exhibit A – Statement of Work

Contractor agrees to provide County, including but not limited to, conducting materials testing and field inspection, as needed. Work is to begin upon County and Contractor developing a testing schedule followed by County issuing a Notice to Proceed. Scope of work typically includes:

- a. Review previous tests conducted in area for existing native materials. Use these tests in the upcoming project.
- b. Collect samples from Contractor, or County, or from site, as directed by County.
- c. Perform field tests of materials, as agreed by County. Perform laboratory analyses on an agreed turnaround time, as directed and agreed with County. Contact the County inspector once the results are available. Conduct onsite inspection of materials, or offsite, if fabrication occurs elsewhere, as directed.
- d. Prepare a draft and final report and attach all laboratory reports.
- e. Prepare a report cover sheet summarizing the laboratory findings; use a California Department of Transportation (Caltrans) table format with a comparison of failed tests to the project's special provisions and/or Caltrans Standard Specifications, as appropriate.
- f. If compaction testing is performed, and any tests fail, then a follow-up passing re-test is required at the same location to verify compliance with the project specifications.
- g. Sign and stamp the report by a California licensed civil engineer.

Tests are usually conducted in-house, but sometimes tests are subcontracted out to a third-party laboratory, if approved by County. Mark-up costs to be billed to County in the event of the use of a third party lab will not exceed 15 (fifteen) percent.

Contractor shall maintain certification of its personnel and equipment by the California Department of Transportation (Caltrans) or American Association of State Highway and Transportation Officials, Materials Reference Laboratory certification, as appropriate, during the life of this project and shall include certifications to County as requested by County. . This contract requires a DIR number issued by the California Department of Labor Relations.

Exhibit B – Payment Arrangements

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid up to a total contract amount, including cost reimbursements, not to exceed \$100,000.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in EXHIBIT A as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in Attachment B1 (Schedule of Fees). Invoices submitted for payment that are based upon Attachment B1 must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in EXHIBIT A.
- C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of Attachment B1 shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

EXHIBIT B1 – FEE SCHEDULE



Schedule of Fees 2018 - 2019

NOTE: Rates will be adjusted annually each July 1st to reflect increased costs.

Personnel Rates: Per Hour Unless Otherwise Noted

Task Code	Engineering and Consulting Personnel	Rate
10026	Senior Principal Advisor/Consultant	\$ 290.00
10001	Principal Engineer/Geologist	\$ 195.00
10017	Metallurgical Engineer	\$ 190.00
70000	Registered Geotechnical Engineer	\$ 190.00
10010	Technical Advisor	\$ 190.00
10011	Material Scientist, Welding/NDT Consultant	\$ 200.00
70003	Registered Geologists/Certified Engineering Geologist	\$ 180.00
10003	Senior Engineer/Geologist	\$ 175.00
10009	Registered Civil Engineer	\$ 170.00
60003	Roofing/Waterproofing Consultant	\$ 195.00
10013	Project Engineer/Manager	\$ 160.00
30000	Quality Control Manager	\$ 150.00
10005	Senior Staff Engineer/Geologist	\$ 145.00
10007	Staff Engineer/Geologist	\$ 140.00
10015	Quality Control Administrator	\$ 130.00
10019	Metallurgical Technician	\$ 105.00
90001	CADD Operator/Draftsperson	\$ 95.00
70107	Field Supervisor	\$ 125.00
91030	Safety Supervisor	\$ 125.00
20000	Laboratory Manager	\$ 115.00
98000	Laboratory Technician	\$ 95.00
90005	Expert Witness Testimony	\$ 505.00
91010	Qualified SWPPP Developer	\$ 140.00
91000	Qualified SWPPP Practitioner	\$ 130.00
30001	Vibration Engineer	\$ 170.00

Task Code	Field Inspection Personnel	Rate
10101	Concrete/Reinforced Steel Inspector	\$ 99.00
10103	Prestressed/Post Tensioned Inspector	\$ 99.00
10105	Concrete ICC Inspector	\$ 99.00
10109	Drilled-In-Anchor Inspector	\$ 99.00
10111	Gunite/Shotcrete Inspector	\$ 99.00
10113	Masonry Inspector	\$ 99.00
10201	Structural Steel/Welding Inspector	\$ 103.00
10203	AWS Certified Welding Inspector	\$ 103.00
10207	Fireproofing Inspector	\$ 103.00
10501	Lead Inspector	\$ 116.00
10115	Firestop Special Inspector - IFC Premier	\$ 125.00
10117	Firestop Special Inspector - IQP	\$ 150.00
70109	L.A. Deputy Grading Inspector	\$ 116.00
75001	Asphalt Field and Plant Inspector/Technician	\$ 113.00
70103	Pile Driving Inspector	\$ 113.00
70101	Soils Technician	\$ 99.00
10107	Concrete Quality Control (ACI/Caltrans Technician)	\$ 99.00
60001	Roofing/Waterproofing Inspector	\$ 116.00
10515	Mechanical Inspector	\$ 133.00
10519	Electrical Inspector	\$ 133.00
10521	Plumbing Inspector	\$ 133.00
10523	Building Inspector	\$ 133.00
30002	Vibration Monitoring Technician	\$ 105.00
50003	Field Engineering Technician	\$ 116.00

Task Code	Shop Inspection Personnel	Rate
10301	Structural Steel Fabrication Inspector	\$ 113.00
10309	Batch Plant Quality Control Technician/Inspector	\$ 113.00
10325	Glue-Laminated Fabrication Inspector	Quotation
10328	Pre-Cast Concrete/Pipe Fabrication Inspector	\$ 113.00

Task Code	Non-Destructive Testing Personnel	Rate
10401	NDE Ultrasonic Testing Technician	\$ 117.00
10403	NDE Magnetic Particle Testing Technician	\$ 117.00
10405	NDE Dye Penetrant Testing Technician	\$ 117.00
10305	Combination NDE Technician/Welding Inspector	\$ 117.00
10409	Radiographic Testing (crew of 2)	\$ 295.00
10020	NDE Engineer	\$ 170.00

Task Code	Concrete Specimen Preparation	Rate
20151	Sawing of Specimens (Each)	\$ 30.00
20157	Coring of Specimens in Lab (Each)	\$ 30.00

Task Code	Laboratory Trial Batch: Concrete, Cement and Mortar	Rate

Task Code	Equipment Usage (Daily Unless Otherwise Noted)	Rate
95318	Skidmore	\$ 40.00
95309	Torque Wrench, Small	\$ 15.00
95312	Torque Wrench, Large	\$ 25.00
95315	Torque Multiplier	\$ 40.00
95321	Air Meter	\$ 20.00
95324	Brass Mold	\$ 20.00
95343	Nuclear Gauge (Per Hour)	\$ 9.00
95333	Pull Test Equipment	\$ 60.00
95348	Concrete/Asphalt Coring Equipment	\$ 600.00
95327	Pachometer	\$ 55.00
95336	Floor Flatness (Dipstick)	\$ 45.00
95330	Schmidt Hammer	\$ 20.00
95341	Vapor Emission Test Kits	\$ 30.00
95342	Relative Humidity Probe	\$ 60.00
95339	UPV (Ultrasonic Pulse Velocity) Meter	\$ 350.00
95351	Fireproofing Adhesion/Cohesion (Per Test)	\$ 30.00
95300	A Scan Ultrasonic Equipment and Consumables	\$ 75.00
95303	Magnetic Particle Equipment and Consumables	\$ 40.00
95306	Liquid Penetrant Consumables	\$ 35.00
95307	Phased Array Ultrasonic Equipment (Per Hour)	\$ 60.00
95347	Ground Penetrating Radar	\$ 300.00
95345	Impact Echo	\$ 290.00
95362	Ultrasonic Tomography	\$ 450.00
95349	Inertial Profiler (Per Hour)	\$ 260.00
95357	Project Dedicated Vehicle	\$ 110.00
95364	Roller Compacted Concrete Vibrating Hammer/Tampling Plate	\$ 70.00
95367	Half-cell Potential Equipment Set	\$ 350.00
95368	Concrete Electrical Resistivity Meter	\$ 160.00
95369	Field Hardness (Steel)	\$ 100.00
95370	Coating Thickness Gauge	\$ 100.00

Task Code	Specimen Pick-Up	Rate
20102	Standard Sample: Concrete Cylinders (Each)	\$ 22.00
20101	Standard Sample: Mortar/Grout Cubes and Cores, Fireproofing, Rebar, and Epoxy Prisms (Each)	\$ 22.00
20103/	Oversize Sample: Masonry Prisms, Shotcrete Panels, Flexural Beams (Each)	\$ 50.00
20104	Technician for Specimen Pick-Up Not Listed Above (Per Hour, 2-Hour Minimum)	\$ 95.00
20109	Technician for Specimen Pick-Up Before 5:00 a.m. or After 5:00 p.m. Monday thru Friday, or All Day Saturday (Per Hour, 2-Hour Minimum Plus Mileage)	\$ 116.00

Task Code	Jobsite Trailer, Mobile or On-site Laboratory	Rate
95360	Mobile laboratory for rapid set concrete (per shift not exceeding 12 hours) All others by quotation	\$ 400.00

Task Code	Concrete Tests (Field Made Specimens)	Rate
20201	6" x 12" Cylinder: Compression Strength (ASTM C39)	\$ 34.00
20202	4" x 8" Cylinder: Compression Strength (ASTM C39)	\$ 30.00
20203	Density of Structural Lightweight Concrete Equilibrium or Oven Dry Method (ASTM C567)	\$ 75.00
20205	Core Compression including Trimming (ASTM C42)	\$ 60.00
20207	6" x 6" x 18" Flexural Beams Not Exceeding Referenced Size (ASTM C78, C293 or CTM 523)	\$ 75.00
20209	Splitting Tensile Strength (ASTM C496)	\$ 85.00
20211	Modulus of Elasticity Test (ASTM C469)	\$ 240.00
80003	Rapid Chloride Permeability Test: Cylinders or Cores (ASTM C1202)	\$ 475.00
80006	Density, Absorption, and Voids in Hardened Concrete (ASTM C642)	\$ 380.00
40005	Flexural Toughness (ASTM C1609, Formerly ASTM C1018)	\$ 800.00
40009	Coefficient of Thermal Expansion of Concrete (CRD 39, AASHTO T336)	\$ 500.00

Task Code	Physical Testing of Chemical Admixtures for Concrete	Rate
80196	Qualification of Admixture per ASTM C494	Quotation

Task Code	Soils and Aggregate Tests	Rate
30503	Abrasion: LA Rattler (ASTM C131)	\$ 185.00



30217	Compression Test Cylinders Made and Tested in Laboratory (ASTM C192, C35)	\$ 48.00	30505	Abrasion: LA Rattler (ASTM C535)	\$ 195.00
30219	6" x 6" x 18" Flexural Beams Made and Tested in Laboratory (ASTM C192, C78)	\$ 88.00	70301	Atterberg Limits/Plasticity Index (ASTM D4318, CTM204)	\$ 150.00
30223	Splitting Tensile Strength Cylinders Made and Tested in Laboratory (ASTM C192, C496)	\$ 110.00	70303	California Bearing Ratio Excluding Maximum Density (ASTM D1883): Soil	\$ 550.00
30225	Modulus of Elasticity Test Cylinders Made and Tested in Laboratory (ASTM C192, C469)	\$ 260.00	70304	California Bearing Ratio Excluding Maximum Density (ASTM D1883): Cement-Treated Soil	\$ 650.00
30227	Density of Structural Lightweight Concrete Made in the Laboratory, Equilibrium or Oven Dry Method (ASTM C567)	\$ 90.00	70344	Cement-Treated Soil/Base Mix Design: includes three trial cement contents with three unconfined compressive strength specimens per cement content	\$ 3,000.00
30201	Laboratory Trial Batch (ASTM C192)	\$ 475.00	70305	Chloride and Sulfate Content (CTM 417, CTM 422)	\$ 130.00
30203	Laboratory Trial Batch: Packaged Dry Concrete Including Verification of Slump, Air Content, Plastic Unit Weight, Six Cylinders for Compressive Strength (ASTM C387 and C192)	\$ 900.00	30403	Clay Lumps and Friable Particles (ASTM C142)	\$ 175.00
30205	Drying Shrinkage Up to 28 Days: Three 3" x 3" or 4" x 4" Bars, Five Readings up to 28 Dry Days (ASTM C157)	\$ 475.00	30321	Cleaness Value: 1" x #4 (CTM 227)	\$ 175.00
30230	Additional Reading, Per Set of Three Bars	\$ 45.00	30322	Cleaness Value: 1.5" x .75" (CTM 227)	\$ 275.00
30231	Storage over Ninety (90) Days, Per Set of Three Bars, Per Month	\$ 30.00	70393	Collapse Potential/Index (ASTM D5333)	\$ 175.00
30207	Setting Time Up to 7 Hours (ASTM C403)	\$ 130.00	70396	Compressive Strength of Molded Soil-Cement Cylinders (ASTM D1633)	\$ 105.00
30209	Bleeding (ASTM C232)	\$ 130.00	70309	Consolidation Test: Full Cycle (ASTM 2435, CTM 219)	\$ 195.00
30229	Concrete Restrained Expansion (ASTM C878)	\$ 500.00	70311	Consolidation Test: Time Rate per Load Increment (ASTM D2435, CTM 219)	\$ 45.00
30211	Mix, Make and Test Mortar or Grout Specimens for Compressive Strength: Set of 6 (ASTM C878)	\$ 425.00	70313	Corrosivity Series: Sulfate, Cl, pH, Resistivity (CTM 643, 417, and 422)	\$ 245.00
20263	Non-Shrink Grout: Height Change after Final Set (ASTM C1090)	\$ 450.00	70315	Crushed/Fractured Particles (ASTM D5821, CTM 205)	\$ 175.00
20265	Non-Shrink Grout: Height Change at Early Age (ASTM C827)	\$ 800.00	70317	Direct Shear Test: Remolded and/or Residual (ASTM D3080)	\$ 245.00
30232	Cracking Resistance, Set of Three Rings, Laboratory Trial Batching, Test Until Cracking or up to 28 Days (ASTM 1581)	\$ 5,000.00	70319	Direct Shear Test: Undisturbed - Slow [CD] (ASTM D3080)	\$ 225.00
30233	Evaluation of Pre-Packaged Masonry Mortars (ASTM C270)	\$ 1,100.00	70321	Direct Shear Test: Undisturbed - Fast [CU] (ASTM D3080)	\$ 195.00
30234	Creep, ASTM C512 (One Year of Loading)	\$ 5,800.00	70378	Durability Index: Per Method - A,B,C, or D (CTM 229, ASTM D3744)	\$ 210.00
Task Code	Chemical Analysis and Petrographic Examination of Concrete	Rate	70325	Expansion Index (ASTM D4829, UBC 18-2)	\$ 170.00
80123	Chemical Analysis for Acid Soluble Chlorides (ASTM C1152) (includes sample prep)	\$ 250.00	75004	Fine Aggregate Angularity (AASHTO T304, ASTM C1252, CTM 234)	\$ 190.00
80193	Chloride Diffusion Coefficient of Cementitious Mixtures by Bulk Diffusion (ASTM C1556)	\$ 2,200.00	30507	Flat and Elongated Particle (ASTM D4791)	\$ 225.00
80129	Petrographic Examination of Hardened Concrete (ASTM 856) (Comprehensive)	\$ 1,600.00	30508	Flat or Elongated Particle (ASTM D4791)	\$ 195.00
Task Code	Physical and Chemical Analysis of Cement	Rate	70331	Maximum Density: Methods A/B/C (ASTM D1557, D698, CTM 216)	\$ 190.00
80195	Physical Testing and Chemical Analysis of Portland Cement per Standard Requirements (ASTM C150)	\$ 1,200.00	70333	Maximum Density: Check Point (ASTM D1557, D698)	\$ 65.00
80100	Chemical Analysis of Portland Cement per Standard Requirements (ASTM C150)	\$ 600.00	70335	Maximum Density: AASHTO C [Modified] (AASHTO T-180)	\$ 195.00
80103	Physical Testing of Portland Cement per Standard Requirements (ASTM C150)	\$ 600.00	70337	Moisture Content (ASTM D2216, CTM 226)	\$ 25.00
80194	Physical Testing of Type K Cement, Mortar Expansion (ASTM C806)	\$ 650.00	70339	Moisture and Density: Ring Sample (ASTM D2937)	\$ 30.00
80106	Partial Analysis or Specific Physical Tests	Quotation	70341	Moisture and Density: Shelby Tube Sample (ASTM D2937)	\$ 40.00
Task Code	Physical and Chemical Analysis of Cement, Continued	Rate	70340	Moisture-Density Relations of Soil-Cement Mixtures Premixed in the Field (ASTM D558)	\$ 275.00
80110	Sulfates Resistance of Hydraulic Cement (ASTM C1012) - 6 months	\$ 2,200.00	70342	Moisture-Density Relations of Soil-Cement Mixtures Mixed in the Lab (ASTM D558)	\$ 350.00
80111	Sulfates Resistance of Hydraulic Cement (ASTM C1012) - 12 months	\$ 2,500.00	30401	Organic Impurities (ASTM C40, CTM 213)	\$ 90.00
Task Code	Physical and Chemical Analysis of Fly Ash	Rate	70343	Permeability (ASTM D5084)	Quotation
80140	Chemical Analysis of Fly Ash per Standard Requirements (ASTM C618)	\$ 600.00	80001	Potential Reactivity: Chemical Method (ASTM C289 - Discontinued Method)	\$ 525.00
80143	Physical Testing of Fly Ash per Standard Requirements (ASTM C618)	\$ 600.00	70394	Potential Reactivity: Mortar Bar Expansion Method, 14-Day Exposure (ASTM C1260)	\$ 800.00
80146	Partial Analysis or Specific Physical Tests	Quotation	70391	Potential Reactivity: Mortar Bar Expansion Method, 28-Day Exposure (ASTM C1260)	\$ 850.00
80147	Chemical Analysis and Physical Testing of Fly Ash per Standard Requirements (ASTM C1618)	\$ 1,100.00	70398	Potential Reactivity: Concrete Bar Expansion, Method (ASTM C1293), 12 month	\$ 2,400.00
Task Code	Soils and Aggregate Tests, Continued	Rate	70399	Potential Reactivity: Concrete Bar Expansion, Method (ASTM C1293), 24 month	\$ 2,600.00
70360	Sieve Analysis: Split Sieve (ASTM C136, CTM 202)	\$ 240.00	70397	Potential Reactivity of Aggregate Combination, 14-Day Exposure, Mortar (ASTM C1567)	\$ 950.00
70361	Sieve Analysis Without Wash: With Cobbles (ASTM C136, CTM 202)	\$ 235.00	70392	Potential Reactivity of Aggregate Combination, 28-Day Exposure, Mortar (ASTM C1567)	\$ 1,000.00
70363	Soundness: Sodium or Magnesium Sulfate, 5 Cycles (ASTM C88)	\$ 450.00	70345	R-Value: Soil (ASTM 2844, CTM 301)	\$ 410.00
70355	Specific Gravity and Absorption: Coarse (ASTM C127, CTM 206)	\$ 100.00	70347	R-Value: Aggregate Base (ASTM D2844, CTM 301)	\$ 410.00
70367	Specific Gravity and Absorption: Fine (ASTM C128, CTM 207)	\$ 165.00	70349	Sand Equivalent (ASTM D2419, CTM 217)	\$ 125.00
70369	Swell/Settlement Potential: One Dimensional (ASTM D4546)	\$ 105.00	70351	Sieve #200 Wash Only (ASTM D1140, CTM 202)	\$ 90.00
70371	Triaxial	Quotation	70353	Sieve with Hydrometer: 3/4" Gravel to Clay (ASTM D422, CTM 203)	\$ 250.00
			70355	Sieve with Hydrometer: Sand to Clay (ASTM D422, CTM 203)	\$ 240.00
			70357	Sieve Analysis Including Wash (ASTM C136, CTM 202)	\$ 150.00
			70359	Sieve Analysis Without Wash (ASTM C136, CTM 202)	\$ 120.00
Task Code	Asphalt Concrete Tests, Continued	Rate			
75111	Hamburg Wheel Track Test, 20,000 passes, 4 briquettes (AASHTO T324)	\$ 1,000.00			
75039	Raveling Test of Cold Mixed Emulsified Asphalt (ASTM D7196)	\$ 200.00			
75067	Marshall Stability, wet set, 3 replicates (AASHTO T245)	\$ 325.00			
75068	Marshall Stability, dry set, 3 replicates (AASHTO T245)	\$ 275.00			
75070	Cold Recycled Asphalt Mix Design: 2 gradings each, 3 emulsion content (Caltrans LP-8)	\$ 9,500.00			
75114	Superpave Mix Design, with Rubber (Excluding Aggregate Quality Tests)	\$ 6,200.00			
75115	Superpave Mix Design, with Additives (Excluding Aggregate Quality Tests)	\$ 5,590.00			



TWINING

70373	Unconfined Compression (ASTM D2166, CTM 221)	\$ 135.00
30317	Unit Weight Per Cubic Foot (ASTM C29, CTM 212)	\$ 125.00
30319	Voids in Aggregate with Known Specific Gravity (ASTM C29, CTM 212)	\$ 125.00

Task Code	Asphalt Concrete Tests	Rate
75031	HMA Mixing and Preparation	\$ 125.00
75032	HMA Mixing and Preparation with Aggregate Treatment	\$ 175.00
75033	Bulk Specific Gravity of Compacted Sample or Core: SSD (CTM 308C and ASTM D2726)	\$ 55.00
75036	Bulk Specific Gravity of Compacted Sample or Core: Paraffin Coated (CTM 308A and ASTM D1188)	\$ 80.00
75040	Emulsion Residue, Evaporation (ASTM D244)	\$ 150.00
75024	Extraction: % Bitumen (CTM 382, ASTM D6307)	\$ 160.00
75027	Extraction: % Bitumen and Gradation (CTM 382, CTM 202, ASTM D6307, ASTM D5444)	\$ 215.00
75028	Extraction: % Bitumen, Correction Factor (CTM 382, ASTM D6307)	\$ 350.00
75030	Chemical Extraction: % Bitumen and Sieve Analysis (ASTM D2172 Method A or B, ASTM D5444)	\$ 245.00
75042	Lab Tested Maximum Density: Hveem, 3 briquettes (CTM 304, CTM 308, ASTM D1561, ASTM D1188)	\$ 210.00
75057	Hveem Stabilometer Test, Premixed, 3 briquettes (CTM 304, CTM 366, ASTM D1560, ASTM D1561)	\$ 210.00
75048	Lab Tested Maximum Density: Marshall, 3 briquettes (ASTM D6926, ASTM D2726)	\$ 210.00
75049	Lab Tested Maximum Density: Marshall 6" Specimen, 3 briquettes (ASTM D5581, ASTM D2726)	\$ 215.00
75050	Lab Tested Maximum Density: Superpave Gyralatory Compacted Briquette, SSD, 1 briquette (ASTM D6925, ASTM D2726)	\$ 80.00
75052	Lab Tested Maximum Density: Superpave Gyralatory Compacted Briquette, Paraffin, 1 briquette (ASTM D6925, ASTM D1188)	\$ 90.00
75051	Maximum Theoretical Specific Gravity [RICE] (CTM 309, ASTM D2041)	\$ 160.00
75066	Marshall Stability and Flow, Cored Sample, each (ASTM D6927)	\$ 80.00
75069	Marshall Stability and Flow, Premixed, 3 briquettes (ASTM D6926, ASTM D6927)	\$ 210.00
75106	Marshall Stability and Flow, Gyralatory Compacted Specimen Pre-Mixed, 3 briquettes (ASTM D6925, ASTM D5581)	\$ 230.00
75107	Marshall Stability and Flow 6" Specimen, Premixed, 3 briquettes (ASTM D5581)	\$ 220.00
75063	Moisture Content (CTM 370)	\$ 85.00
75005	Wet Track Abrasion Test (ASTM D3910)	\$ 155.00
75093	Hveem Mix Design (Excluding Aggregate Quality Tests)	\$ 3,100.00
75096	Hveem Mix Design, with RAP (Excluding Aggregate Quality Tests, RAP Qualification)	\$ 3,400.00
75099	Hveem Mix Design, with Lime (Excluding Aggregate Quality Tests)	\$ 3,600.00
75094	Hveem Mix Design Caltrans Untreated Mix (Including Aggregate Quality Tests)	\$ 4,350.00
75095	Hveem Mix Design Caltrans Lime Treated Mix (Including Aggregate Quality Tests)	\$ 4,450.00
75084	Marshall Mix Design (Excluding Aggregate Quality Tests)	\$ 3,200.00
75087	Marshall Mix Design with RAP (Excluding Aggregate Quality Tests)	\$ 3,500.00
75090	Marshall Mix Design with Lime (Excluding Aggregate Quality Tests)	\$ 3,550.00
75083	Open Grade Asphalt Concrete Mix Design (CTM 368, ASTM D7064)	\$ 1,350.00
75109	Superpave Mix Design (Excluding Aggregate Quality Tests)	\$ 4,770.00
75113	Superpave Mix Design, with RAP (Excluding Aggregate Quality Tests)	\$ 6,300.00
75075	Effect of Moisture on Asphalt Paving Mixtures, Pre-Mixed (AASHTO T283, ASTM D4867)	\$ 900.00

Task Code	Reinforcing Steel - Welded or Coupled Specimens	Rate
20521	Tensile Test: Welded/Coupled #11 and Smaller	\$ 70.00
20523	Tensile Test: Welded/Coupled #14	\$ 250.00
20525	Tensile Test: Welded/Coupled #18	\$ 375.00
20529	Weld: Macroetch	\$ 75.00
20531	Slippage Test - Caltrans (CTM 670)	\$ 190.00
20532	Tensile Test: Welded Hoops #11 and Smaller	\$ 145.00

Task Code	Metal and Steel Testing	Rate
20601	Tensile Strength: Up to 100K Pounds (Each)	\$ 60.00
20603	Tensile Strength: Up to 200K Pounds (Each)	\$ 70.00
20605	Tensile Strength: Up to 300K Pounds (Each)	\$ 85.00
20607	Tensile Strength: Up to 400K Pounds (Each)	\$ 135.00
20609	Tensile Strength: 400K to 600K Pounds (Each)	\$ 325.00
20611	Tensile Strength: Stress-Strain Percent Offset	\$ 170.00
20545	Weld: Macroetch	\$ 75.00
20547	Weld: Fracture	\$ 40.00
20615	Bend Test	\$ 55.00
20617	Flattening Test	\$ 70.00

Task Code	Brick Masonry Tests, ASTM C67	Rate
20301	Modulus of Rupture: Flexural (5 Required Per ASTM)	\$ 50.00
20303	Compression Strength (3 Required Per ASTM)	\$ 50.00
20305	Absorption: 5 Hour or 24 Hour (5 Required)	\$ 55.00
20307	Absorption (Boil): 1, 2 or 5 Hours (5 Required)	\$ 65.00
20309	Initial Rate of Absorption (5 Required)	\$ 45.00
20311	Efflorescence (5 Required)	\$ 65.00
20313	Cores: Compression	\$ 60.00
20315	Shear Test on Brick Cores: 2 Faces	\$ 85.00

Task Code	Concrete Block, ASTM C140	Rate
20321	Compression (3 Required Per ASTM)	\$ 85.00
20323	Absorption/Moisture Content/Oven Dry Density (3 Required Per ASTM)	\$ 85.00
20327	Linear Shrinkage (ASTM C426)	\$ 225.00
20335	Web and Face Shell Measurements	\$ 45.00
20329	Tension Test	\$ 155.00
20331	Core Compression	\$ 60.00
20333	Shear Test of Masonry Cores: 2 Faces	\$ 85.00
20339	Efflorescence Tests (3 Required)	\$ 45.00

Task Code	Masonry Prisms, ASTM C1314	Rate
20341	Compression Test: Composite Masonry Prisms Up To 8" x 16"	\$ 185.00
20343	Compression Test: Composite Masonry Prisms Larger Than 8" x 16"	\$ 245.00
20346	Prism Cord Modulus of Elasticity	\$ 525.00
20347	Prism Cord Modulus of Elasticity with Transverse Strain (for double-wythe specimen)	\$ 650.00

Task Code	Mortar and Grout	Rate
20351	Compression: 2" x 4" Mortar Cylinders (ASTM C780)	\$ 55.00
20353	Compression: 3" x 3" x 6" Grout Prisms, Includes Trimming (ASTM C119)	\$ 35.00
20355	Compression: 2" Cubes (ASTM C109)	\$ 55.00
20357	Compression: Cores (ASTM C42)	\$ 60.00

Task Code	Masonry Specimen Preparation	Rate
20155	Cutting of Cubes or Prisms	\$ 60.00

Task Code	Fireproofing Tests	Rate
20401	Oven Dry Density (Per Sample) (ASTM E605)	\$ 65.00

Task Code	Gunit and Shotcrete Tests	Rate
20361	Core Compression Including Trimming (ASTM C42)	\$ 60.00
20365	Compression: Cubes (Includes Saw Cutting)	\$ 80.00

Task Code	Concrete Roof Fill: Gypsum, Vermiculite, Perlite, Lightweight Insulating Concrete, Etc.	Rate
20371	Compression Test (ASTM C495 and C472)	\$ 45.00
20373	Air Dry Density (ASTM C472)	\$ 35.00
20379	Oven Dry Density (ASTM C495)	\$ 60.00

Task Code	Reinforcing Steel, ASTM A615, A706	Rate
20501	Tensile Test: # 11 or Smaller	\$ 60.00
20503	Bend Test: # 11 or Smaller	\$ 55.00
20504	Bend Test #14 or #18	\$ 325.00
20505	Tensile Test: # 14	\$ 225.00
20507	Tensile Test: # 18	\$ 325.00

Task Code	Charpy Impact	Rate
20621	Charpy Impact Ambient Temperature, per sample (Average of 3 Samples Typically Required)	\$ 90.00
20623	Charpy Impact Reduced Temperature, per sample (Average of 3 Samples Typically Required)	\$ 110.00

Task Code	Machining of Charpy Samples: Carbon Steel	Rate
20780	Cutting and Milling (Per 0.5" or Fraction Thereafter) (Average of 3 Samples Typically Required)	\$ 80.00
20783	Final Machining to Sample Configuration (Average of 3 Samples Typically Required)	\$ 90.00

Task Code	Prestressing Wires and Tendons, (ASTM A416)	Rate
20701	Stress-Strain Analysis: Wire or Strands (Including Chart and Percent Offset)	\$ 180.00
20703	Tensile Test Only	\$ 135.00
20705	Tendons	



20619	Hardness Test (ASTM E18) (Per Test)	\$ 80.00
20630	Bolt: Axial Tensile Test (Up to 7/8" diameter)	\$ 45.00
20631	Bolt: Wedge Tensile Test (Up to 7/8" diameter)	\$ 60.00
20632	Bolt: Axial Tensile Test (Greater than 7/8" up to 1" diameter)	\$ 65.00
20633	Bolt: Wedge Tensile Test (Greater than 7/8" up to 1" diameter)	\$ 80.00
20634	Bolt: Axial Tensile Test (Greater than 1" diameter)	Quotation
20635	Bolt: Wedge Tensile Test (Greater than 1" diameter)	Quotation
20636	Bolt: Proof Load Test (Up to 7/8")	\$ 70.00
20637	Bolt: Proof Load Test (Greater than 7/8" up to 1" diameter)	\$ 90.00
20638	Bolt: Proof Load Test (Greater than 1")	Quotation
20639	Nut: Proof Load Test (Up to 7/8")	\$ 50.00
20640	Nut: Proof Load Test (Greater than 7/8" up to 1" diameter)	\$ 70.00
20641	Nut: Proof Load Test (Greater than 1")	Quotation

Task

Code	Chemical Testing of Metal and Steel	Rate
80170	Steel Chemical Analysis	\$ 150.00
80173	Weight of Galvanized Coating (ASTM A90)	\$ 75.00
80176	Epoxy Coating Thickness	\$ 78.00

Task Machining and Preparation of Tensile and Bend

Code	Sample: Carbon Steel	Rate
20751	Machinist: Initial Preparation from Mock-up, Etc. (Per Hour)	\$ 95.00
20753	Sawcut to Overall Width (Per 0.5" Thickness or Fraction Thereof)	\$ 50.00
20755	Machine to Test Configuration: Milled Specimens	\$ 65.00
20757	Machine to Test Configuration: Turned Specimens (Per 0.5" Thickness or Fraction Thereof)	\$ 130.00
20759	Prepare Subsize Specimens (Per 0.5" Thickness or Fraction Thereof)	\$ 80.00

Task	Polymer Matrix Composite Materials (Fibervrap)	Rate
20706	Tensile Strength - Set of 5 Specimens/batch/direction (ASTM D3039)	\$ 1,350.00
20707	Tensile Strength - Additional Specimens (ASTM D3039)	\$ 250.00
20708	Heating Chamber Time - Per 24 hr period	\$ 95.00

Task Calibration Services and Universal Machine

Code	Usage	Rate
20801	Calibration/Verification Services	Quotation
20803	Universal Test Machine Usage (Per Hour)	\$ 325.00

Ceramic Tile Testing Division

The Ceramic Tile Institute of America (CTIOA) and Twining worked together to advance and develop technology designed to enhance the quality of materials and workmanship in the ceramic tile industry. A separate schedule of fees for these services is available upon request.

Cyclic and Fatigue Testing Programs on Special Products/Parts Engineering and Technical supports/Design of Prototypes and Special Test Set-Up

Fastener/Coupling Full Testing Program Per New Regulations: Tension, Tension/Bend, Shear, Double Shear, 8 Compressions

Fiberglass/Composite Materials Field Testing Program (ASTM D4065, D1143, D4923, D2584, D4476, D1242, D7901, D7921, and D732)

Field Testing of Structures and Structural Elements In-Place Shear Testing

Materials and/or Product Evaluation Per Specifications Structural Dynamic Testing and Durability Analysis

General Conditions

NOTE: Field inspection work conditions are established by contract with Operating Engineers, Local 12.

NOTE: A minimum of 24 hours notice is required for testing and inspection services.

NOTE: For projects subject to a Project Labor Agreement (PLA), if terms/conditions of the PLA are more restrictive those terms/conditions will apply.

NOTE: Rates will be adjusted annually each July 1st to reflect increased costs.

Administrative Fees

All administrative costs including report distribution and Twining ConstructionHive system are billed at the following percentage of the monthly invoice total: 4%

Note that hard copies of reports will be sent only to governing jurisdictions that mandate them. All other parties will receive reports electronically. The administrative fee above will receive reports electronically. The administrative fee above will be increased by 1% if additional hard copies of reports are requested.

Minimum Charges (Inspection and Technician Personnel Only - Other Personnel Charged on Portal to Portal Basis)

2-Hour Minimum: Inspector arrives at jobsite, no work to perform.

4-Hour Minimum: 1 to 4 hours of inspection

8-Hour Minimum: Over 4 to 8 hours of inspection

Regular Time

The first 8 hours worked Monday through Friday between 5:00 a.m. and 5:00 p.m.

Time and One-Half (All Types of Inspection)

All shifts will be billed based on the time and date of their start. Any increment past 8 hours through 12 hours worked Monday through Friday and the first 12 hours on Saturday.

Time and one-half will also be charged for any time before 5:00 a.m. and after 5:00 p.m.

Double Time (All Types of Inspection)

All shifts will be billed based on the time and date of their start. After the first 12 hours worked Monday through Saturday, all day Sunday, holidays, and the first Saturday following the first Friday in June and December. Holidays are New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving,



and Christmas Day.

Meal Period

When personnel are required by their duties to work more than five consecutive hours without a one-half hour uninterrupted meal period, one half hour at double time rate will be charged in addition to any applicable overtime for actual hours worked.

Shift Differential (Applies to Regularly Scheduled Shifts Only)

A \$1.00 per hour shift differential premium will be charged for all inspection hours that fall outside of the 5:00 a.m. to 5:00 p.m. time period. Twining will require 48-hour notice prior to beginning a shift that will include hours falling outside this time period. Should this notice not be provided, all work performed on that shift will be billed at the overtime rate.

If three shifts per day are required, the first shift will be billed at the standard rate. The second shift shall be billed in accordance with the previous paragraph. The third shift shall be billed at 8 hours for the first 6 1/2 hours worked and overtime for all hours thereafter.

Travel Time and Mileage

For projects outside a 50-mile radius from the nearest Twining facility, \$0.70 per excess mile to and from the project will be charged for inspectors and technicians. Other than small tools, whenever project related equipment is required to be transported to and from the project site, time and mileage for inspectors and field technicians will be billed on a portal to portal basis. For all projects, \$0.70 per mile rate and applicable travel time will be charged portal to portal for engineers, consultants, supervisors, and laboratory technicians from the laboratory to the project site and return.

For work locations located 100 miles or more from Twining, travel time will be charged at the relevant rate for inspectors and technicians in addition to a subsistence allowance.

Saturday Sample Pick-Ups

In order to be in strict conformance with testing standards, it may be required that Saturday pick-ups be performed (e.g. concrete specimens cast on Friday must be picked up on Saturday in order to be in conformance with ASTM C31 requiring specimens to be moved to their final curing location within 48 hours of casting.) Applicable charges for Saturday work will apply when this is required. Should these charges not be authorized then Twining will not be responsible for any negative consequences.

Reimbursable Expenses

Parking, air fare, car rental, food and lodging, etc. will be charged at cost plus 20% per processed invoice, unless provided by client.

Project Specific Documents

Costs presented assume that client will provide project specific documents (plans, specifications, submittals, RFIs, etc.) for all inspection personnel. Should project specific documents be provided electronically through a for fee service, the client will be responsible for providing access and paying any fees for the service.

Project Site Facilities

Prices quoted assume that initial curing facilities for test samples that comply with relevant test standards and project requirements are provided by others. In addition, prices quoted assume that work/desk space for inspection staff are provided by others. Additional costs will apply should Twining be required to provide such facilities.

Subsistence

Subsistence on remote jobs will be charged per quotation.

Laboratory Testing Hours

Please note that laboratory testing will be billed on an hourly basis for non-standard tests. If testing is required to be performed on Saturdays, Sundays, holidays, or before 5:30 a.m. or after 4:00 p.m. on weekdays, an additional hourly charge with a minimum of one hour will be applied for the laboratory technician. 1.5 x regular test rate will be charged for rush testing.

Charges for Subcontracted Services

Material sent to outside laboratory for testing:	Cost plus 20%
Material sent to outside fabricator or machine shop:	Cost plus 20%
Glu-Lam beam inspection:	Cost plus 20%
Other subcontractors:	Cost plus 20%
Project exclusive equipment purchase:	Cost plus 20%

Limit of Liability

Client agrees to limit Twining's aggregate liability to all entities for alleged or actual errors and omissions in the performance of its professional services under this agreement to \$50,000.00 or the fees actually paid to Twining, whichever amount is greater. Higher limits may be available by quotation.

General Conditions, continued

Certified Payroll

Certified payroll will be provided, upon request, at an additional charge of \$150.00/month. Fee applies to every month that certified payroll must be submitted regardless of whether or not services were provided for any given month.

Final Reports Required by Jurisdiction

If a final report or affidavit is required, we must first review all inspection and testing reports and clear up any unresolved issues on these reports. These issues will typically require approval by the engineer or architect of record. This process can take several weeks or just a day, depending on the number and complexity of the issues. Cost for final reports will be billed hourly.

Terms of Payment

Fees charged are for professional and technical services and are due upon presentation. If not paid within 30 days from date of invoice, they are considered past due and a finance charge of 1½% per month will be added to the unpaid balance (APR 18%).

A 3% fee will be applied for payments processed by credit card.

All invoice errors or necessary corrections shall be brought to the attention of Twining within 15 days of receipt of invoice. Thereafter, customer acknowledges invoices are correct and valid. Twining reserves the right to terminate its services to a customer without notice if all invoices are not current. Upon such termination of services, the entire amount accrued for all services performed shall immediately become due and payable. Customer waives any and all claims against Twining, its subsidiaries, affiliates, servants and agents for termination of work on account of these terms.

In the event of any litigation arising from or related to any agreement to provide services whether verbal or written, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred, including staff time, court costs, attorney's fees and all other related expenses in such litigation. Additionally, in the event of a non-adjudicative settlement of litigation between the parties or a resolution of dispute by arbitration, that same process shall determine the prevailing party.

Specimen Disposal

Specimens will be discarded after testing unless Twining has been notified prior to testing that the customer wishes to retrieve the specimens or storage arrangements are made.

Oversize Specimens

An extra charge will be made when test specimens require more than one person to handle because of size or weight.



Elevated Work Platforms

In the event an elevated work platform is required to safely complete our inspections, the client must provide safe access, including a trained and certified operator, to Twining, Inc. inspection and testing personnel.

EXHIBIT C

Indemnification and Insurance Requirements (For Professional Contracts)

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

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

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

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

B. Other Insurance Provisions

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

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

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

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

Attachment G
Agreement for Services
MNS Engineers

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

Agreement for Services of Independent Contractors for Materials Testing and Inspection Services

(Bill Tracy, x5694, Public Works, Transportation Section)

Attachment A contains the Standard Agreement used by the County for technical services and added clauses by the State Auditors; no changes will be made to the Standard Agreement language. Consultants are required to review the Standard Agreement and acknowledge their acceptance of the terms of the Standard Agreement language in the space provided below. Failure to acknowledgement acceptance of the Standard agreement language will cause the rejection of the proposal without further consideration.

Greg Chelini acknowledges acceptance of the terms of the Standard Agreement, "Agreement for Services of Independent Contractors."

Signature: _____



AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter County) and MNS Engineers, Inc. with an address at 201 N. Calle Cesar Chavez. Suite 300, Santa Barbara CA 93103 (hereafter Contractor) wherein Contractor agrees to provide and County agrees to accept the services specified herein.

WHEREAS, Contractor represents that it is specially trained, skilled, experienced, and competent to perform the special services required by County and County desires to retain the services of Contractor pursuant to the terms, covenants, and conditions herein set forth;

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

1. DESIGNATED REPRESENTATIVE

Pat Santomauro at phone number (805)-681-5697 is the representative of County and will administer this Agreement for and on behalf of County. Greg Chelini at phone number 805-692-6921 is the authorized representative for Contractor. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To County: Pat Santomauro, Santa Barbara County Public Works Department, 4417 Cathedral Oaks Road, Santa Barbara CA 93110, fax (805)-681-4991
To Contractor: Greg Chelini, MNS Engineers, Inc. 201 N. Calle Cesar Chavez. Suite 300, Santa Barbara CA 93103, 805-692-6921

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

Contractor agrees to provide services to County in accordance with Exhibit A attached hereto and incorporated herein by reference.

4. PERFORMANCE PERIOD

- A. This Agreement shall go into effect on (June 4, 2019), contingent upon approval by County, and Contractor shall commence work after notification to proceed by County's designated representative. The contract shall end on (June 30, 2021), unless extended by contract amendment or unless earlier terminated.
- B. Contractor is advised that any recommendation for contract award is not binding on County until the contract is fully executed and approved by County.

5. COMPENSATION OF CONTRACTOR

In full consideration for Contractor's services, Contractor shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. FEDERAL AND STATE PREVAILING WAGE RATES

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

- B. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.
- D. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code § 1771.1(a)]; no contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5; and this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

7. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowable cost(s) of individual items.
- B. Contractor also agrees to comply with federal procedures in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Super or Omni Circular)
- C. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under applicable Federal Regulations, are subject to repayment by Contractor to County.
- D. All subcontracts shall contain the above provisions.

8. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that Contractor (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to County and not as an officer, agent, servant, employee, joint venturer, partner, or associate of County. Furthermore, County shall have no right to control, supervise, or direct the manner or method by which Contractor shall perform its work and function. However, County shall retain the right to administer this Agreement so as to verify that Contractor is performing its obligations in accordance with the terms and conditions hereof. Contractor understands and acknowledges that it shall not be entitled to any of the benefits of a County employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. Contractor shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, Contractor shall be solely responsible and save County harmless from all matters relating to payment of Contractor's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, Contractor may be providing services to others unrelated to the County or to this Agreement.

9. STANDARD OF PERFORMANCE

Contractor represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, Contractor shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Contractor is engaged. All products of whatsoever nature, which Contractor delivers to County pursuant to this Agreement, shall be prepared in a manner consistent with the standards normally observed by a person practicing in Contractor's profession. Contractor shall correct or revise any errors or omissions, at County's request without additional compensation. Permits and/or licenses shall be obtained and maintained by Contractor without additional compensation.

10. SUBCONTRACTING

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between County and any subcontractor(s), and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be as fully responsible to County for the acts and omissions of its subcontractor(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor. Contractor's obligation to pay its subcontractor(s) is an independent obligation from County's obligation to make payments to the Contractor.
- B. Contractor shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by County's

designated representative, except that, which is expressly identified in the approved Cost Proposal.

- C. Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to Contractor by County.
- D. Any subcontract entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subcontractors.
- E. Any substitution of subcontractor(s) must be approved in writing by County's designated representative prior to the start of work by the subcontractor(s).

11. SUBCONTRACTORS

Contractor is authorized to subcontract with a firm approved by the County Project Manager. Contractor shall be fully responsible for all services performed by its subcontractor. Contractor shall secure from its subcontractor all rights for County in this Agreement, including audit rights. Contractor shall ensure subcontractor's compliance with California Labor Code, including but not limited to the payment of prevailing wage when required.

12. EQUIPMENT PURCHASES

- A. Prior authorization in writing, by County's designated representative shall be required before Contractor enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or Contractor services. Contractor shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in Contractor's Cost Proposal and exceeding \$5,000 prior authorization by County's designated representative; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

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

- C. All subcontracts shall contain the above provisions.

13. DEBARMENT AND SUSPENSION

- A. Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that Contractor has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (non-procurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to County.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Contractor responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.
- D. Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of

the State of California, which certifies that Contractor or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility for participation in any state or local government agency contracts. Contractor certifies that it shall not contract with a subcontractor that is so debarred or suspended.

14. TAXES

Contractor shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. County shall not be responsible for paying any taxes on Contractor's behalf, and should County be required to do so by state, federal, or local taxing agencies, Contractor agrees to promptly reimburse County for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

15. CONFLICT OF INTEREST

- A. Contractor shall disclose in writing any financial, business, or other relationship with County that may have an impact upon the outcome of this contract, or any ensuing County construction project. Contractor shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing County construction project, which will follow.
- B. Contractor hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Section.
- D. CONTRACTOR hereby certifies that neither CONTRACTOR, nor any firm affiliated with CONTRACTOR will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Except for subcontractor whose services are limited to providing surveying or materials testing information, no subcontractor who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.
- A. Contractor shall disclose in writing any financial, business, or other relationship with County that may have an impact upon the outcome of this contract, or any ensuing County construction project. Contractor shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing County construction project, which will follow.
- B. Contractor hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Section.
- D. Contractor hereby certifies that neither Contractor, its employees, nor any firm affiliated with Contractor providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Contractor further certifies that neither Contractor, nor any firm affiliated with Contractor, will bid on any construction subcontracts included within the construction contract. Additionally, Contractor certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.
- F. Except for subcontractor whose services are limited to materials testing, no subcontractor who is providing service on this contract shall have provided services on the design of any project included within this contract.

16. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

County shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. Contractor shall not release any of such items to other parties except after prior written approval of County.

Unless otherwise specified in Exhibit A, Contractor hereby assigns to County all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by Contractor pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). County shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. Contractor agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. Contractor warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. Contractor at its own expense shall defend, indemnify, and hold harmless County against any claim that any Copyrightable Works or Inventions or other items provided by Contractor hereunder infringe upon intellectual or other proprietary rights of a third party, and Contractor shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by County in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

17. NO PUBLICITY OR ENDORSEMENT

Contractor shall not use County's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. Contractor shall not use County's name or logo in any manner that would give the appearance that the County is endorsing Contractor. Contractor shall not in any way contract on behalf of or in the name of County. Contractor shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the County or its projects, without obtaining the prior written approval of County.

18. COUNTY PROPERTY AND INFORMATION

All of County's property, documents, and information provided for Contractor's use in connection with the services shall remain County's property, and Contractor shall return any such items whenever requested by County and whenever required according to the Termination section of this Agreement. Contractor may use such items only in connection with providing the services. Contractor shall not disseminate any County property, documents, or information without County's prior written consent.

19. RETENTION OF RECORDS/AUDIT

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

If federal, state or County audit exceptions are made relating to this Agreement, Contractor shall reimburse all costs incurred by federal, state, and/or County governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from County, Contractor shall reimburse the amount of the audit exceptions and any other related costs directly to County as specified by County in the notification.

20. AUDIT REVIEW PROCEDURES

A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by County's Deputy Director - Finance and Administration for

Public Works.

- B. Not later than 30 days after issuance of the final audit report, Contractor may request a review by County's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by County will excuse Contractor from full and timely performance, in accordance with the terms of this contract.
- D. Contractor and subcontractor contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Contractor's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by Contractor and approved by County contract manager to conform to the audit or review recommendations. Contractor agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by County at its sole discretion. Refusal by Contractor to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

21. INDEMNIFICATION AND INSURANCE

Contractor agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

22. NONDISCRIMINATION

- A. County hereby notifies Contractor that County's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and Contractor agrees to comply with said ordinance.
- B. Statement of Compliance:
 - 1) Contractor's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Contractor has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
 - 2) During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
 - 3) The Contractor shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

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

23. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

24. PROHIBITION OF EXPENDING COUNTY, STATE OR FEDERAL FUNDS FOR LOBBYING

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

1. No state, federal or County appropriated funds have been paid, or will be paid by-or-on behalf of Contractor to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

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

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

25. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT.

Contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.) and pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). The Contractor shall promptly disclose, in writing, to the County office, to the Federal Awarding Agency, and to the Regional Office of the Environmental Protection Agency (EPA), whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of the Clean Air Act (42 U.S.C. 7401-7671q.) or the Federal Water Pollution Control Act (33 U.S.C. 1251-1387).

26. PROCUREMENT OF RECOVERED MATERIALS

Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

27. NONEXCLUSIVE AGREEMENT

Contractor understands that this is not an exclusive Agreement and that County shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Contractor as the County desires.

28. NON-ASSIGNMENT

Contractor shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of County and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

29. TERMINATION

- A. County reserves the right to terminate this contract for convenience upon thirty (30) calendar days written notice to Contractor with the reasons for termination stated in the notice. During the thirty (30) day period, Contractor shall, as directed by County, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on County from such winding down and cessation of services.
- B. County may terminate this contract with Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, County may proceed with the work in any manner deemed proper by County. If County terminates this contract with Contractor, County shall pay Contractor the sum due to Contractor under this contract prior to termination, unless the cost of completion to County exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due Contractor under this contract and the balance, if any, shall be paid to Contractor upon demand.
- C. Should County fail to pay Contractor all or any part of the payment set forth in EXHIBIT B, Contractor may, at Contractor's option, terminate this Agreement if such failure is not remedied by County within thirty (30) days of written notice to County of such late payment.
- D. The maximum amount for which the County shall be liable if this contract is terminated is ENTER AMOUNT dollars.
- E. Upon termination, Contractor shall deliver to County all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by Contractor in performing this Agreement, whether completed or in process, except such items as County may, by written permission, permit Contractor to retain. Contractor shall furnish to County such financial information as in the judgment of County is necessary to determine the reasonable value of the services rendered by Contractor. In the event of a dispute as to the reasonable value of the services rendered by Contractor, the decision of County shall be final. The foregoing is cumulative and shall not affect any right or remedy which County may have in law or equity.

30. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

31. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

32. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to County is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

33. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

34. NO WAIVER OF DEFAULT

No delay or omission of County to exercise any right or power arising upon the occurrence of any event of default

shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to County shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of County.

35. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

36. IMMATERIAL CHANGES

Contractor and County agree that immaterial changes to this Agreement such as time frame and mutually agreeable work program changes which will not result in a change to the total contract amount or to the scope of the Statement of Work may be authorized by the Public Works Director, or designee in writing, and will not constitute an amendment to the Agreement.

37. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

38. COMPLIANCE WITH LAW

Contractor shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of Contractor in any action or proceeding against Contractor, whether County is a party thereto or not, that Contractor has violated any such ordinance or statute, shall be conclusive of that fact as between Contractor and County.

39. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

40. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

41. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Contractor hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Contractor is obligated, which breach would have a material effect hereon.

42. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

43. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

CONTRACTOR SIGNATURE PAGE

Agreement for services and work to be performed by Contractor between the County and Contractor.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by County.

CONTRACTOR:

Greg Chelini

MNS Engineers, Inc.

201 N. Calle Cesar Chavez, Ste 300

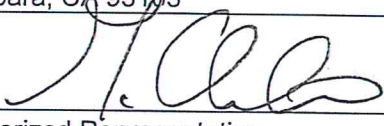
Santa Barbara, CA 93103

C Corporation

gchelini@mnsengineers.com

805-692-6921

By:



Authorized Representative

Date:

7/11/19

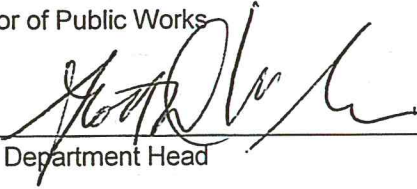
COUNTY SIGNATURE PAGE

Agreement for services and work to be performed by Contractor between the County and Contractor.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by County.

RECOMMENDED FOR APPROVAL:

Scott D. McGolpin
Director of Public Works

By: 
Department Head

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

Steve Lavignino

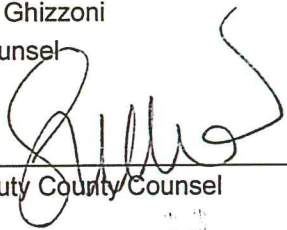
By: _____
Deputy Clerk

By: _____
Chair, Board of Supervisors

Date: _____

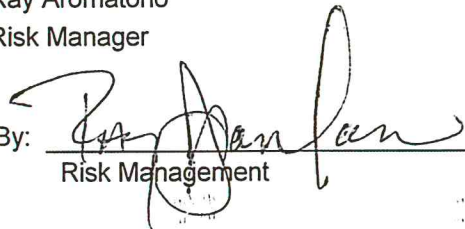
APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: 
Deputy County Counsel

APPROVED AS TO FORM:

Ray Aromatorio
Risk Manager

By: 
Risk Management

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer
Auditor-Controller


By: 
Deputy

Exhibit A – Statement of Work

Contractor agrees to provide County, including but not limited to, conducting materials testing and field inspection, as needed. Work is to begin upon County and Contractor developing a testing schedule followed by County issuing a Notice to Proceed. Scope of work typically includes:

- a. Review previous tests conducted in area for existing native materials. Use these tests in the upcoming project.
- b. Collect samples from Contractor, or County, or from site, as directed by County.
- c. Perform field tests of materials, as agreed by County. Perform laboratory analyses on an agreed turnaround time, as directed and agreed with County. Contact the County inspector once the results are available. Conduct onsite inspection of materials, or offsite, if fabrication occurs elsewhere, as directed.
- d. Prepare a draft and final report and attach all laboratory reports.
- e. Prepare a report cover sheet summarizing the laboratory findings; use a California Department of Transportation (Caltrans) table format with a comparison of failed tests to the project's special provisions and/or Caltrans Standard Specifications, as appropriate.
- f. If compaction testing is performed, and any tests fail, then a follow-up passing re-test is required at the same location to verify compliance with the project specifications.
- g. Sign and stamp the report by a California licensed civil engineer.

Tests are usually conducted in-house, but sometimes tests are subcontracted out to a third-party laboratory, if approved by County. Mark-up costs to be billed to County in the event of the use of a third party lab will not exceed 15 (fifteen) percent.

Contractor shall maintain certification of its personnel and equipment by the California Department of Transportation (Caltrans) or American Association of State Highway and Transportation Officials, Materials Reference Laboratory certification, as appropriate, during the life of this project and shall include certifications to County as requested by County. . This contract requires a DIR number issued by the California Department of Labor Relations.

Exhibit B – Payment Arrangements

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid up to a total contract amount, including cost reimbursements, not to exceed \$100,000.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **Attachment B1** (Schedule of Fees). Invoices submitted for payment that are based upon **Attachment B1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
- C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of **Attachment B1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

EXHIBIT B1 – FEE SCHEDULE

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2019 SCHEDULE OF FEES

PROJECT/PROGRAM MANAGEMENT

Principal-In-Charge.....	\$250
Senior Project/Program Manager.....	235
Project/Program Manager.....	200
Assistant Project/Program Manager.....	175
Senior Project Coordinator.....	150
Project Coordinator.....	120

ENGINEERING

Principal Engineer.....	\$235
Lead Engineer.....	210
Supervising Engineer.....	195
Senior Project Engineer.....	180
Project Engineer.....	165
Associate Engineer.....	150
Assistant Engineer.....	135

SURVEYING

Principal Surveyor.....	\$220
Supervising Surveyor.....	195
Senior Project Surveyor.....	170
Project Surveyor.....	150
Senior Land Title Analyst.....	145
Associate Project Surveyor.....	135
Assistant Project Surveyor.....	125
Party Chief.....	150
Chainperson.....	130
One-Person Survey Crew.....	180

CONSTRUCTION MANAGEMENT

Principal Construction Manager.....	\$250
Senior Construction Manager.....	235
Resident Engineer.....	210
Structure Representative.....	190
Construction Manager.....	185
Assistant Resident Engineer.....	165
Construction Inspector (PW).....	150
Office Administrator.....	105

TECHNICAL SUPPORT

CADD Manager.....	\$160
Supervising Technician.....	145
Senior Technician.....	130
Engineering Technician.....	100

ADMINISTRATIVE SUPPORT

Administrative Analyst.....	\$110
IT Technician.....	105
Graphics/Visualization Specialist.....	95
Administrative Assistant.....	70

GOVERNMENT SERVICES

City Engineer.....	\$200
Deputy City Engineer.....	185
Assistant City Engineer.....	175
Plan Check Engineer.....	160
Permit Engineer.....	140
City Inspector.....	125
City Inspector (PW).....	150
Principal Stormwater Specialist.....	150
Senior Stormwater Specialist.....	135
Stormwater Specialist.....	120
Stormwater Technician.....	110
Building Official.....	150
Senior Building Inspector.....	138
Building Inspector.....	125
Planning Director.....	185
Senior City Planner.....	160
Assistant Planner.....	145
Senior Grant Writer.....	160
Grant Writer.....	135

DIRECT EXPENSES

Use of outside consultants as well as copies, blueprints, survey stakes, monuments and computer plots will be charged at cost plus fifteen percent (15%). Mileage will be charged at the current federal mileage reimbursement rate.

PREVAILING WAGE RATES

Rates shown with Prevailing Wage "(PW)" annotation are used for field work on projects subject to federal or state prevailing wage law and subject to increases when implemented per DIR.

ANNUAL ESCALATION

Billing rates will escalate 3% per year on contract anniversary, with the first escalation applied in 2020.

EXHIBIT C

Indemnification and Insurance Requirements (For Professional Contracts)

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

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

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

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

B. Other Insurance Provisions

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

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

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

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

