

**AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
(FEDERALLY FUNDED PROJECTS)**

THIS AGREEMENT, entered into this _____ day of _____, 20____, by and between the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California, herein called "COUNTY," and CH2M Hill, Inc. a Florida corporation whose address is 2485 Natomas Park Drive, Suite 600, Sacramento, CA 95833, herein called "ENGINEER."

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

WHEREAS, the COUNTY has need for special services and advice with respect to the Work described herein for the San Juan Creek Pedestrian Bridge Project (hereafter, the "Project"); and

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

NOW, THEREFORE, IT IS AGREED by the parties hereto as follows:

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

ARTICLE 2. TIME FOR COMPLETION OF WORK. No Work shall be commenced prior to ENGINEER'S receipt of the COUNTY's Notice to Proceed. All Work shall be completed

no later than March 31, 2015, provided, however, that extensions of time may be granted in writing by the COUNTY's Director of Public Works which said extensions of time, if any, shall be granted only for reasons attributable to inclement weather, acts of God, or for other cause determined in the sole discretion of the COUNTY's Director of Public Works to be good and sufficient cause for such extensions.

ARTICLE 3. PAYMENT FOR SERVICES.

A. COMPENSATION.

1. COUNTY shall pay to ENGINEER as compensation in full for all Work required by this Agreement a sum not to exceed the total Agreement amount of \$152,763 (one hundred fifty-two thousand seven hundred sixty-three dollars).
2. Progress payments will be made to ENGINEER based on compensable services provided and allowable costs incurred at the rates set forth in the ENGINEER'S Cost Proposal attached hereto as Exhibit B, and incorporated herein by this reference. All payments to ENGINEER shall be based on actual services performed and costs incurred at the rates set forth in Exhibit B.
3. The COUNTY reserves the right to delete Work from ENGINEER's Scope of Work, but that such deletion must be in writing from the COUNTY's Director of Public Works that expressly states that certain Work is being deleted. The ENGINEER shall be entitled to no compensation for any Work that is deleted.

B. REPORTS. ENGINEER shall submit to the COUNTY, on a monthly basis, a detailed statement of services performed and Work accomplished during that preceding period, including the number of hours of Work performed and the personnel involved. For the purpose of timely processing of invoices, the ENGINEER'S invoices are not regarded as received until the monthly report is submitted. Any anticipated problems in performing any future Work shall be noted in the monthly reports. The ENGINEER shall also promptly notify the COUNTY of any perceived need for a change in the scope of Work or services, and an explanation as to why the ENGINEER did not include said work in the attached Scope of Work.

C. INVOICES. ENGINEER will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by COUNTY's Contract Administrator of itemized invoices. Invoices shall be

submitted no later than 45 calendar days after the performance of work for which ENGINEER is billing. Invoices shall follow the format stipulated for the Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due the COUNTY that include any equipment purchased under the provisions of Article 24 Equipment Purchase of this Agreement. The final invoice should be submitted within 60 calendar days after completion of the ENGINEER's work. Invoices shall be mailed to the COUNTY's Contract Administrator at the following address:

County of San Luis Obispo
Michael Britton
County Government Center, Room 207,
San Luis Obispo, CA 93408

D. **FEDERAL ACQUISITION REGULATIONS.** ENGINEER understands and agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of individual cost items. The ENGINEER also agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Any costs for which payment has been made to ENGINEER that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by ENGINEER to COUNTY. Any subcontract entered into by ENGINEER relating to this Agreement, shall incorporate the provisions of this paragraph in a manner that binds the subcontractor to all of the provisions of this paragraph.

E. **PROMPT PAYMENT OF FUNDS.** No retainage will be withheld by the COUNTY from progress payments due the ENGINEER. Retainage by the ENGINEER or subcontractors is prohibited, and no retainage will be held by the ENGINEER from progress due subcontractors. Any violation of this provision shall subject ENGINEER or subcontractors to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the ENGINEER or subcontractor in the event of a dispute involving late payment or nonpayment by the ENGINEER or deficient subcontractor performance, or noncompliance by a subcontractor.

This provision applies to both DBE and non-DBE prime consultants and subconsultants. Any subcontract entered into by ENGINEER relating to this Agreement, shall incorporate the provisions of this paragraph in a manner that binds the subcontractor to all of the provisions of this paragraph.

F. **ASSIGNED PERSONNEL.** All work performed under this Agreement shall be performed by the personnel identified in the Organizational Chart, attached hereto as Exhibit C, and incorporated herein by this reference. Any changes to the key personnel designated on this Organizational Chart must be approved in writing by the COUNTY's Contract Administrator. The Contract Administrator for COUNTY will be Michael Britton.

ARTICLE 4. ACCOUNTING RECORDS.

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

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

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

D. ENGINEER shall make accounting records and supporting documentation available on demand to the COUNTY and its designated auditor for inspection and audit. Disallowed costs shall be repaid to the COUNTY. The COUNTY may require having the ENGINEER'S accounting records audited, at ENGINEER'S expense, by an accountant licensed by the

State of California. The audit shall be presented to the COUNTY's Auditor-Controller within thirty (30) calendar days after completion of the audit.

E. The State, the State auditor, FHWA, or any authorized representative of the Federal Government having jurisdiction under Federal law or regulations (including the basis of Federal Funding in whole or in part) shall have access to any book, record, any documents of the ENGINEER that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. The ENGINEER must also maintain records for five years from the date of final payment.

F. Any subcontract entered into by ENGINEER relating to this Agreement, shall incorporate the provisions of this Article in a manner that binds the subcontractor to all of the provisions of this Article.

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

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

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

1. **COMMERCIAL GENERAL LIABILITY (“CGL”)**. Policy shall include coverage at least as broad as set forth in Insurance Services Office (herein “ISO”) Commercial General Liability coverage. (Occurrence Form CG 0001) with policy limits not less than the following:

- \$1,000,000 each occurrence (combined single limit);
- \$1,000,000 for personal injury liability;
- \$1,000,000 aggregate for products-completed operations; and
- \$1,000,000 general aggregate.

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

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

3. **WORKERS’ COMPENSATION AND EMPLOYERS’ LIABILITY (“WC / EL”)**. This policy shall include at least the following coverages and policy limits:

- a. Workers’ Compensation insurance as required by the laws of the laws of the State of California; and
- b. Employer’s Liability Insurance Coverage B with coverage amount not less than one-million (\$1,000,000) dollars each accident / Bodily Injury (herein “BI”); one-million (\$1,000,000) dollars policy limit BI by disease; and, one-million (\$1,000,000) dollars each employee BI disease.

4. **PROFESSIONAL LIABILITY (“PL”)**. This policy shall cover damages, liabilities, and costs incurred as a result of ENGINEER’s professional errors and omissions or malpractice. This policy shall include a coverage limit of at least One-Million Dollars (\$1,000,000) per claim, including the annual aggregate for all claims (such coverage shall apply during the performance of the services under this Agreement and for three

(3) years thereafter with respect to incidents which occur during the performance of this Agreement). ENGINEER shall notify the County if any annual aggregate is eroded by more than seventy-five percent (75%) in any given year.

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

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

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

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

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

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

San Luis Obispo County
Michael Britton, Public Works Department
County Government Center, Room 207
San Luis Obispo CA 93408

ARTICLE 7. INDEMNIFICATION.

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

whatever other acts or omissions of ENGINEER that constitute negligence, recklessness, or willful misconduct under applicable law, the parties acknowledge that any act or omission of the ENGINEER that causes any damages or monetary losses, and constitutes a breach of any duty under, or pursuant to, this Agreement, shall at a minimum constitute negligence (and may constitute recklessness or willful conduct if so warranted by the facts).

B. The preceding paragraph applies to any and all such claims, regardless of the nature of the claim or theory of recovery. For purposes of the paragraphs found in this Article 7 of the Agreement, "ENGINEER" shall include the ENGINEER, and/or its agents, employees, sub-contractors, or other independent contractors hired, by, or directly responsible to, ENGINEER.

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

ARTICLE 8. ENGINEER'S RESPONSIBILITY FOR ITS WORK.

A. ENGINEER has been hired by the COUNTY because of ENGINEER's specialized expertise in performing the Work described in the Scope of Work attached as Exhibit A. ENGINEER shall be solely responsible for such Work. The COUNTY's review, approval and/or adoption of any designs, plans, specifications or any other Work of the ENGINEER shall be in reliance on ENGINEER's specialized expertise and shall not relieve the ENGINEER of its sole responsibility for its Work. Similarly, if the COUNTY approves any designs, plans, or specifications prepared by ENGINEER that vary from the requirements of this Agreement, such approval shall not excuse the ENGINEER for failing to comply with this Agreement. The COUNTY is under no duty or obligation to review or verify the appropriateness, quality or accuracy of any designs, plans, specifications, or any other

Work of the ENGINEER, including but not limited to, any methods, procedures, tests, calculations, drawings, or other information used or created by ENGINEER in performing any Work under this Agreement.

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

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

D. The ENGINEER accepts the relationship of trust and confidence established with COUNTY by this Agreement, and covenants with the COUNTY to furnish the ENGINEER's reasonable skill and judgment in furthering the interests of the COUNTY. The ENGINEER shall use its best efforts to perform in an expeditious and economical manner consistent with the interests of the COUNTY.

E. If ENGINEER ever has reason to believe that any of its general or professional duties of care conflict with any requirements of this Agreement, the ENGINEER shall promptly so notify the COUNTY in writing.

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

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

ARTICLE 11. DOCUMENTS, INFORMATION, AND MATERIALS OWNERSHIP.

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

B. ENGINEER understands and agrees that the applicable patent rights provisions described in 48 CFR 27 shall be used to determine rights to inventions.

C. Any subcontract entered into by ENGINEER relating to this Agreement, shall incorporate the provisions of this Article in a manner that binds the subcontractor to all of the provisions of this Article.

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

ARTICLE 13. TERMINATION OF AGREEMENT FOR CAUSE. If ENGINEER fails to perform ENGINEER'S duties to the satisfaction of the COUNTY, or if ENGINEER fails to fulfill in a timely and professional manner ENGINEER'S obligations under this Agreement, or if ENGINEER violates any of the terms or provisions of this Agreement, or if ENGINEER,

ENGINEER'S agents or employees fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the COUNTY, then COUNTY shall have the right to terminate this Agreement effective immediately upon the COUNTY giving written notice thereof to the ENGINEER. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. ENGINEER shall be paid for all Work satisfactorily completed prior to the effective date of such termination. If COUNTY's termination of the Agreement for cause is defective for any reason, including but not limited to COUNTY's reliance on erroneous facts concerning ENGINEER'S performance, or any defect in notice thereof, this Agreement shall automatically terminate without cause thirty (30) calendar days following the COUNTY's written notice of termination for cause to the ENGINEER, and the COUNTY's maximum liability shall not exceed the amount payable to ENGINEER under Article 12 above.

ARTICLE 14. COMPLIANCE WITH LAWS. ENGINEER shall comply with all Federal, State, and local laws and ordinances that are applicable to the performance of the Work of this Agreement. This includes compliance with prevailing wage rates and their payment in accordance with the California Labor Code. ENGINEER acknowledges that labor performed on site to support any work required under this Agreement is a public work within the meaning of Labor Code Section 1720. ENGINEER will comply, or cause its subconsultant to comply, with the provisions of Labor Code Section 1774.

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

ARTICLE 16. NON-DISCRIMINATION.

A. During the performance of this Agreement, ENGINEER and its subconsultant(s) 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. ENGINEER and subconsultant(s) shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. ENGINEER and subconsultant(s) shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (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 Agreement by reference and made a part hereof as if set forth in full. ENGINEER and its subconsultant(s) shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

B. Any subcontract entered into by the ENGINEER relating to this Agreement, shall incorporate the provisions of this Article in a manner that binds the subcontractor to all of the provisions of this Article.

ARTICLE 17. DISPUTES & CLAIMS.

A. **EXCLUSIVE REMEDY.** Any demand or assertion by ENGINEER seeking any additional compensation and/or time extension, or other relief, for any reason whatsoever (hereafter collectively "Claim"), must be in strict compliance with the requirements of this Article 17. For purposes of this Article 17, any and all Work relating to any such demand or assertion shall be referred to as "Disputed Work", regardless of whether the basis of the demand or assertion arises from an interpretation of the Agreement, an action or inaction of ENGINEER or COUNTY, or any other event, issue, or circumstance. If the Disputed Work relates to any Work performed by any subcontractors or subconsultants hired by

ENGINEER in compliance with the provisions of this Agreement, any such Claims must also be processed by ENGINEER in accordance with the provisions of this Article 17.

The administration of a Claim as provided in this Article 17, including ENGINEER's performance of its duties and obligations specified in this Article 17 is ENGINEER's sole and exclusive remedy for disputes of all types pertaining to the payment of money, extension of time, the adjustment or interpretation of the Agreement or other contractual or tort relief arising from Agreement. Compliance with the procedures described in this Article 17 is a condition precedent to the right to file a Government Code Claim, commence litigation, or commence any other legal action. ENGINEER waives the right to pursue or submit any Claims not processed in accordance with Article 17.

B. MANDATORY PROCEDURE AND CONDITION PRECEDENT. The requirements set forth in this Article 17 are mandatory, and ENGINEER shall strictly comply with these requirements. Strict compliance with these requirements is a condition precedent to ENGINEER's ability to exercise any rights or remedies that may otherwise be available to ENGINEER under the Agreement or any applicable Laws or Regulations relating to the Claim. No action or inaction by ENGINEER and/or COUNTY to try to resolve any Claim(s) through agreement, amendment, mediation, settlement, or any other means shall excuse ENGINEER from strictly complying with the requirements of this Article 17. The ENGINEER shall bear all costs incurred in complying with the provisions of this Article 17.

C. NOTICE OF POTENTIAL CLAIM. The ENGINEER shall not be entitled to any additional compensation and/or time under this Agreement for any act, or failure to act, by the COUNTY, or for the happening of any event, thing, occurrence, or other cause, unless the ENGINEER has provided the COUNTY's Director of Public Works with timely written Notice of Potential Claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which the ENGINEER believes additional compensation and/or time will or may be due, the nature of the cost involved, and, insofar as possible, the full amount of additional compensation and/or time extension sought in relation to the potential claim. The said notice as above required must have been given to the COUNTY prior to the time that the ENGINEER shall have performed any Disputed Work. It is the intention of this paragraph that differences between the parties relating to this Agreement be brought to the attention of the COUNTY at the earliest possible time in order that such

matters may be settled, if possible, or other appropriate action promptly taken. The ENGINEER hereby agrees that it shall have no right to additional compensation and/or time regarding any Claim for which no written Notice of Potential Claim as herein required was filed with the COUNTY's Director of Public Works.

D. **NOTICE OF FINAL CLAIM.** As soon as reasonably practical upon completion of the Disputed Work, and no later than thirty (30) calendar days after completion of the Disputed Work, ENGINEER shall provide to COUNTY a Notice of Final Claim containing a full and final documentation of the Claim that provides the following information:

1. A detailed factual narration of events fully describing the nature and circumstances that caused the dispute, including, but not limited to, necessary dates, locations, and items of Work affected by the dispute.
2. The specific provisions of the Agreement that support the Claim and a statement of the reasons these provisions support and provide a basis for entitlement of the Claim.
3. When additional monetary compensation is requested, the exact amount requested, including an itemized breakdown of individual costs. These costs shall be segregated into the following cost categories:
 - a. Labor – A listing of individuals, classifications, hours and dates worked, hourly labor rates, and other pertinent information related to the requested reimbursement of labor costs.
 - b. Materials/ Equipment – Invoices, purchase orders, location of materials/ equipment used to perform the Disputed Work, dates they were used, and other pertinent information related to the requested reimbursement of material/ equipment costs.
 - c. Other categories as specified by COUNTY.

E. **ENGINEER'S CONTINUING OBLIGATIONS.** Neither the filing of a Notice of Potential Claim or of a Notice of Final Claim, nor the pendency of a dispute or claim, nor its consideration by the COUNTY, shall excuse the ENGINEER from full and timely performance in accordance with the terms of this Agreement. ENGINEER shall promptly respond to any requests for further information or documentation regarding ENGINEER's potential or final Claim. If ENGINEER fails to provide an adequate written response to COUNTY within fifteen (15) calendar days of COUNTY's written request for such further

documentation or information, ENGINEER shall be deemed to have waived its Claim. If the further documentation or information requested by COUNTY, in the opinion of the COUNTY, reasonably takes the ENGINEER more than fifteen (15) calendar days to comply with, the written request shall provide the ENGINEER a specific response deadline that is commensurate to a reasonable response time.

F. **RESPONSE TO NOTICE OF FINAL CLAIM.** The COUNTY shall respond in writing to the Notice of Final Claim within 60 calendar days of receipt thereof Claim, or may request, in writing, within 45 calendar days of said receipt, any additional information or documentation relating to the Claim or any defenses to the Claim the COUNTY may have against the ENGINEER. ENGINEER shall comply with the request within the reasonable time deadline provided by COUNTY in the request. If any additional information is thereafter requested by COUNTY, it shall likewise be provided by ENGINEER within the reasonable time deadline provided by COUNTY in such follow-up request. The written response to the Notice of Final Claim shall be submitted to the ENGINEER within thirty (30) calendar days after receipt of such further information and documentation, or within a period of time no greater than that taken by the ENGINEER in producing the additional information or documentation, whichever is greater. ENGINEER may request an informal conference to meet and confer for settlement of the issues in dispute, but ENGINEER shall have no right to demand such a conference. Neither the requesting of any such conference by ENGINEER or COUNTY, nor the holding of such conference shall affect the date of the final decision on the Claim. No written communications of COUNTY sent to ENGINEER after any such conference will change the date of the final decision on the Claim unless the writing expressly states that the date of the final decision is being changed to a new specific date.

A Claim may be granted in whole or in part only by a written response that contains the signature of the COUNTY's Director of Public Works or his authorized representative. In the event a valid written decision is not provided to ENGINEER within the time prescribed in this Article 17, the Claim shall be deemed denied on the last day a written response was due. The date upon which the Claim is approved or denied pursuant to the provisions of this Article 17, shall constitute the date of the final decision on the Claim under the provisions of this Article 17. The date of the final decision on a Claim can only be changed

by a subsequent writing signed by COUNTY that expressly states that the date of the final decision on the Claim has been changed to a new specific date.

G. **GOVERNMENT CODE CLAIM REQUIREMENTS.** For all Claims not resolved as a result of these Article 17 procedures, ENGINEER must submit each Claim in a Government Code Section 910 form of claim for final investigation and consideration of its settlement prior to initiation of any litigation on any such Claim, as required by Government Code Section 945.4. Pursuant to Government Code Section 930.2, the one-year period in Government Code Section 911.2 is hereby reduced to 150 days. This time deadline is measured from the accrual date of each separate cause of action. The time deadline for filing a Government Code claim shall not be tolled by any action or inaction by ENGINEER or COUNTY, including but not limited to any action or inaction to try to resolve the Claim through negotiation, mediation, settlement, agreement (including Change Order), or by any other means, other than by a separate written tolling agreement expressly approved as to form (on the face of the agreement) by the COUNTY's Counsel Office.

ARTICLE 18. AUDIT REVIEW PROCEDURES.

A. Any dispute arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by COUNTY's Chief Financial Officer.

B. Not later than thirty (30) calendar days after issuance of the final audit report, ENGINEER may request a review by COUNTY's Chief Financial Officer of unresolved audit issues. The request for review shall be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by COUNTY will excuse ENGINEER from full and timely performance, in accordance with the terms of this Agreement.

D. ENGINEER and subconsultants' contracts, including cost proposals and indirect cost rates (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 certified public accountant (CPA) ICR Audit Workpaper Review. If selected for audit or review, the Agreement, cost proposal, and ICR and related workpapers, if applicable, will be reviewed to verify compliance with 48 CFR 31 and other related laws and regulations. In the instances of a CPA ICR Audit Workpaper Review it is the ENGINEER's responsibility to ensure federal, state, or local government

officials are allowed full access to the CPA's workpapers. The Agreement, cost proposal, and ICR shall be adjusted by ENGINEER and approved by COUNTY's Contract Administrator to conform to the audit or review recommendations. ENGINEER agrees that individual terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if directed by COUNTY at its sole discretion. Refusal by the ENGINEER to incorporate audit or review recommendations, or to ensure that the Federal, State, or local governments have access to CPA workpapers, will be considered a breach of contract terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

ARTICLE 19. ENGINEER IS AN INDEPENDENT CONTRACTOR. It is expressly understood that in the performance of the services herein provided, ENGINEER shall be, and is, an independent contractor, and is not an agent or employee of the COUNTY. ENGINEER has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons assisting ENGINEER in the performance of the services rendered hereunder. ENGINEER shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with Social Security, withholding, and all other regulations governing such matters.

ARTICLE 20. ENTIRE AGREEMENT AND MODIFICATION. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. ENGINEER shall be entitled to no other compensation and/or benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Any changes increasing the ENGINEER'S compensation and/or benefits must be approved by the COUNTY's Board of Supervisors; any other changes may be signed by the COUNTY's Director of Public Works on behalf of the COUNTY. ENGINEER specifically acknowledges that in entering into and executing this Agreement, ENGINEER relies solely upon the provisions contained in this Agreement and no others. If there is any conflict between the language in the body of this Agreement and any exhibits attached hereto, the body of this Agreement shall take precedence.

ARTICLE 21. ENFORCEABILITY. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 22. WARRANTY OF ENGINEER. ENGINEER warrants that ENGINEER and each of the personnel employed or otherwise retained by ENGINEER for Work under this Agreement are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

ARTICLE 23. SUBCONTRACTORS.

A. Other than Work designated in Exhibits A and B to be performed by other persons, the ENGINEER shall perform the Work contemplated with resources available within its own organization and no portion of the Work shall be subcontracted without written authorization by the COUNTY. In the event the COUNTY provides written authorization for Work to be performed by a lower tier subcontractor the use of the words “subcontractor” and “subcontract” in this Article shall refer to subcontracting by a subcontractor of the first tier or any other tier.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the COUNTY and any subcontractors, and no subcontract shall relieve the ENGINEER of his/her responsibilities and obligations hereunder. The ENGINEER agrees to be as fully responsible to the COUNTY for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the ENGINEER. The ENGINEER's obligation to pay its subcontractors is an independent obligation from the COUNTY's obligation to make payments to the ENGINEER.

C. Any subcontract entered into by ENGINEER relating to this Agreement, shall incorporate the provisions of this Article in a manner that binds the subcontractor to all of the provisions of this Article.

D. ENGINEER shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the ENGINEER by the COUNTY.

- E. Any substitution of subcontractors must be approved in writing by the COUNTY's Contract Administrator in advance of assigning Work to a substitute subcontractor.
- F. Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.
- G. For purposes of this Agreement, the term "subcontractor" includes subconsultants.

ARTICLE 24. EQUIPMENT PURCHASE.

- A. Before ENGINEER enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or engineering services, ENGINEER shall (1) provide the COUNTY's Contract Administrator an evaluation of the necessity or desirability of incurring such costs, and (2) obtain prior written authorization from the COUNTY's Contract Administrator for such cost. Three competitive quotations must be submitted with ENGINEER's request for prior authorization, or the absence of such competitive bidding must be adequately justified.
- B. ENGINEER shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, COUNTY shall receive a proper refund or credit at the conclusion of the contract, or if the Agreement is terminated, ENGINEER 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 ENGINEER elects to keep the equipment, fair market value shall be determined at ENGINEER's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by COUNTY and ENGINEER, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by COUNTY. 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.
- C. Any subcontract entered into by ENGINEER relating to this Agreement, shall incorporate the provisions of this Article in a manner that binds the subcontractor to all of the provisions of this Article.

ARTICLE 25. APPLICABLE LAW AND VENUE. This Agreement has been executed and delivered in the State of California and the validity, enforceability, and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

ARTICLE 26. NOTICES. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to the COUNTY at:

San Luis Obispo County
Department of Public Works
Michael Britton, Contract Administrator
County Government Center, Room 207
San Luis Obispo, CA 93408

and to the ENGINEER:

CH2M Hill
Doug Fredericks
2485 Natomas Park Drive, Suite 600
Sacramento, CA 95833

ARTICLE 27. COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS.

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

ARTICLE 28. CONFIDENTIALITY OF DATA.

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

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

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

D. Any subcontract entered into by ENGINEER relating to this Agreement, shall incorporate the provisions of this Article in a manner that binds the subcontractor to all of the provisions of this Article.

ARTICLE 29. RESTRICTIVE COVENANT. ENGINEER agrees that ENGINEER will not, during the continuance of this Agreement, perform or otherwise exercise the services described in Exhibit A for anyone except for the COUNTY, unless and until said COUNTY waives this restriction.

ARTICLE 30. CERTIFICATIONS. ENGINEER hereby warrants and represents that it has accurately completed and executed the "Certification of Consultant, Commission and Fee" and "Consultant Certification of Contract Costs and Financial Management System" which are attached hereto as Exhibits D and E, respectively, and are incorporated by reference and made a part of this Agreement.

ARTICLE 31. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION.

A. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs."

B. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The ENGINEER or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The ENGINEER shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the ENGINEER to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the COUNTY deems appropriate.

C. The COUNTY has established a DBE goal, for this Agreement of 1%. The ENGINEER must meet the DBE goal or document a good faith effort to meet the goal.

D. The “Notice to Proposers DBE Information” “Consultant Proposal DBE Commitment,” “Consultant Contract DBE Information” are attached hereto as Exhibits F, G, and H respectively, and are hereby incorporated by reference and made part of this Agreement.

E. If a DBE subcontractor is unable to perform, the ENGINEER must make a good faith effort to replace him/her with another DBE subcontractor, if the goal is not otherwise met.

F. Any subcontract entered into by ENGINEER relating to this Agreement, shall incorporate the provisions of this Article in a manner that binds the subcontractor to all of the provisions of this Article.

G. DBE Records

1. The ENGINEER shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of Work performed by their own forces along with the corresponding dollar value of the Work.

2. Upon completion of all Work under this Agreement, a summary of these records shall be prepared and submitted on the Caltrans form entitled, “Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subcontractors,” certified correct by the ENGINEER and shall be furnished to the COUNTY’s Project Manager with the final invoice. Failure to provide the summary of DBE payments with the final

invoice will result in 25% of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the ENGINEER when a satisfactory “Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors” form is submitted to the COUNTY’s Project Manager.

H. If a DBE subcontractor is decertified during the life of the Agreement, the decertified subcontractor shall notify the ENGINEER in writing with the date of decertification. If a subcontractor becomes a certified DBE during the life of the Agreement, the subcontractor shall notify the ENGINEER in writing with the date of certification. Any changes to the DBE certification status of any subcontractor should be reported to the COUNTY’s Project Manager within thirty (30) calendar days.

I. A DBE may be terminated only with prior written approval from COUNTY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting COUNTY consent for the termination, ENGINEER must meet the procedural requirements specified in 49 CFR 26.53(f).

J. Performance of DBE Consultant and other DBE Subconsultants/Suppliers

1. A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing; and other relevant factors.

2. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

3. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the Work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

ARTICLE 32. QUALITY CONTROL AND QUALITY ASSURANCE. The ENGINEER shall provide a description of its Quality Control procedure. The process shall be implemented for all facets of Work and a QC-QA statement and signature shall be placed on all submittals to the COUNTY.

ARTICLE 33. CLAIMS FILED BY COUNTY'S CONSTRUCTION CONTRACTOR.

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

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

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

D. Any subcontract entered into by ENGINEER relating to this Agreement, shall incorporate the provisions of this Article in a manner that binds the subcontractor to all of the provisions of this Article.

ARTICLE 34. NATIONAL LABOR RELATIONS BOARD CERTIFICATION. In accordance with Public Contract Code Section 10296, the ENGINEER hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the ENGINEER within the immediately preceding two-year period, because of the ENGINEER's failure to comply with an order of a federal court that orders the ENGINEER to comply with an order of the National Labor Relations Board.

ARTICLE 35. EVALUATION OF CONSULTANT. The ENGINEER's performance will be evaluated by the COUNTY. A copy of the evaluation will be sent to the ENGINEER for comments. The evaluation together with the comments shall be retained as part of the contract record.

ARTICLE 36. DEBARMENT AND SUSPENSION CERTIFICATION.

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

three (3) years. Any exceptions to this certification must be disclosed in writing to the COUNTY, prior to ENGINEER's execution of this Agreement.

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

ARTICLE 37. CONFLICT OF INTEREST.

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

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

C. Any subcontract entered into by ENGINEER relating to this Agreement shall incorporate the provisions of this Article in a manner that binds the subcontractor to all of the provisions of this Article.

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

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

ARTICLE 38. REBATES, KICKBACK, OR OTHER UNLAWFUL CONSIDERATION. The ENGINEER warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any COUNTY

employee. For breach or violation of this warranty, COUNTY shall have the right in its discretion; to terminate the Agreement without liability; to pay only for the value of the Work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE 39. NONLOBBYING CERTIFICATION.

A. The ENGINEER certifies to the best of his/ her knowledge and belief that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any 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; the ENGINEER shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. This form is attached hereto as Exhibit I and incorporated herein by this reference.

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

ARTICLE 40. INSPECTION OF WORK. ENGINEER and any subconsultant shall permit COUNTY, the State, and the Federal Highway Administration; to review and inspect all work related activities, documents, and files (including electronically stored documents and files) at all reasonable times during the performance period of this Agreement including review and inspection on a daily basis.

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

COUNTY OF SAN LUIS OBISPO

By: _____
Chairperson of the Board

Date: _____

ATTEST:

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

Date: _____

ENGINEER
~~CH2M Hill~~, a Florida Corporation
CH2M Hill, Inc.

By: Leslie Bonneau

Title: Vice President

Date: 5-16-14

By: Mark Brzy

Title: Designated Manager

Date: 5/16/14

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: _____
Assistant County Counsel

Date: 5-15-2014

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ARTICLE 40. INSPECTION OF WORK. ENGINEER and any subconsultant shall permit COUNTY, the State, and the Federal Highway Administration; to review and inspect all work related activities, documents, and files (including electronically stored documents and files) at all reasonable times during the performance period of this Agreement including review and inspection on a daily basis.

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

COUNTY OF SAN LUIS OBISPO

By: _____
Chairperson of the Board

Date: _____

ATTEST:

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

Date: _____

ENGINEER
CH2M Hill, a Florida Corporation

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: _____
Assistant County Counsel

Date: 5-15-2014

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EXHIBIT A



CH2M HILL
2485 Natomas Park Drive
Suite 600
Sacramento, CA 95833
TEL 916.920.0300
FAX 916.920.8463

May 14, 2014

Mr. Michael Britton, PE
County of San Luis Obispo
Public Works Department
1055 Monterey Street, Room 207
San Luis Obispo, CA 93408

Subject: Proposal for San Juan Creek Pedestrian Bridge (WBS 300485)

Dear Mr. Britton:

Please see the attached Scope of Work for the San Juan Creek Pedestrian Bridge at Shandon.
The attached proposal is valid for 120 days. We have assumed the work will be completed by 1/31/2015.

Please do not hesitate to contact either me at (916) 286-0341, or Leslie at (916) 286-0209, if you need additional information.

Sincerely,

CH2M HILL

A handwritten signature in black ink that reads "Douglas Fredericks".

Douglas Fredericks, PE
Project Manager

A handwritten signature in black ink that reads "Leslie Borneau".

Leslie Borneau
Vice President

Exhibit A
Scope of Work
San Juan Creek Pedestrian Bridge
WBS 300485

Task 1: Attend Kick-off Meeting

CH2M HILL will attend the kick-off meeting and visit the site. Our project manager and structure designer will attend.

The goals of the meeting are to introduce the team, determine the communication plan, discuss the project schedule, review the scope of work, and define the roles and responsibilities of the various team members.

Deliverables: Meeting minutes
Project schedule in MS Project format

Task 2: Conduct Preliminary Engineering and Survey

CH2M HILL will review the project data provided by the County, determine the preliminary bridge layout, work with suppliers to determine bridge superstructure alternatives, determine connecting pathway geometry, and develop the project description for environmental documentation.

Cannon will survey the project site to obtain a topographic map, establish the location of the existing bridge elements, creek cross sections for the hydraulic modeling, and set two permanent benchmarks.

CH2M HILL will prepare a technical memorandum addressing the following:

- Conclusions from the preliminary bridge layout task and discussions with bridge suppliers
- Site design issues such as retaining walls and pathway connection to existing facilities
- Preliminary costs

Deliverables: Technical Memorandum summarizing preliminary conclusions
Project Description for environmental documentation
Area of impact for the APE map
Exhibits displaying proposed pedestrian bridge alternatives
Topographic map with control established for construction

Task 3: Provide Geotechnical Engineering

Once the preliminary layout and surveying have been completed, EMI will prepare a borehole location plan in consultation with the structure designer. This plan will be used to secure the required encroachment permits from the County – we assume no other permits are required from other jurisdictions. EMI will then drill exploratory borings on the bank at both planned abutment locations and in the creek at one planned pier location.

The exploration will need to be coordinated to avoid the overhead cable and telephone lines at the north side of the existing bridge.

Positions and ground surface elevations at the boring will be logged using handheld GPS units and shown on the bridge foundation plans and log of test boring sheet.

We anticipate the liquefaction potential of the on-site soils will be high. The near-surface soils are also anticipated to be highly compressible due to natural creek deposits. The liquefiable and compressible soils will require close coordination with the structure designer to ensure a solid bridge substructure design.

After laboratory testing on the soil samples is completed, an idealized soil profile will be created for design purposes. The following analyses will be performed for the project:

- Determine an ARS curve using the Caltrans online web-based tool, Version 2
- Evaluate liquefaction potential and seismically induced settlement
- Evaluate liquefaction-induced lateral spreading at the approaches
- Determine axial pile or spread footing capacities
- Provide lateral pile resistance or LPILE input parameters
- Evaluate soil corrosivity

The results of this work will be described in a Foundation Report which will follow the Caltrans Guidelines for Structure Foundation Reports dated December 2009.

Deliverables: Preliminary Geotechnical Memorandum
 Draft Geotechnical Foundation Report
 Final Geotechnical Foundation Report
 Log of test borings sheet

Task 4: Conduct Hydrologic Analysis and Hydraulic Study

CH2M HILL will collect and review any hydrologic and hydraulic data provided by the County. We will complete a floodplain study to determine the extent of the San Juan Creek watershed and the design flows for 100- and 50-year events. We have assumed that no existing information is available from Federal Emergency Management Agency (FEMA) or other sources.

Surveyed creek cross sections will be used to create a hydraulic model of the bridge site to determine the water surface elevations at the two flow events for both a baseline model and a proposed conditions model. The baseline model will be based on the Centre Street as-built plans, and the proposed model will include the addition of the proposed pedestrian bridge. This model will be used to set the bridge soffit elevation.

The hydraulic model will provide a flow velocity, and combined with geotechnical information, will allow us to perform a scour analysis to determine foundation types and elevations of the footings in the creek.

This data will be summarized in a Hydrology and Hydraulic Report.

We will also prepare a Location Hydraulic Study and Floodplain Encroachment Report forms using the Caltrans Local Assistance templates. These forms will be transmitted to the County for your use in preparing the CEQA environmental documentation.

Deliverables: Final Hydrologic and Hydraulic Report
 Required Caltrans forms for bridge project, including Summary Floodplain Encroachment Report and Location Hydraulic Study Form

Task 5: Attend PDT Meeting – Design Assessment

CH2M HILL will attend a PDT meeting to present the preliminary engineering performed to date, including bridge layout, surveying, geotechnical, and hydrology and hydraulics tasks.

We will present as a minimum three bridge alternatives to the PDT, and assist in determining the schedule and format of the community meeting.

Deliverables: Meeting minutes
 Bridge alternatives exhibits
 Draft recommendations

Task 6: Attend Community Meeting – Bridge Selection

We will assist the County at a community meeting with the Shandon Advisory Council and interested community members to review pedestrian bridge alternatives and aesthetics, provide input, insight, and guidance on the design, and work to help the community reach a consensus on the alternative to move forward.

Deliverables: Meeting minutes
 Initial cost estimate
 Final recommendations

Project cost estimate of selected project
Exhibits

Task 7: Provide 30% PS&E

The 30% PS&E submittal will contain the following items:

- **Summary Memorandum.** The Summary Memorandum will discuss potential ROW issues, drainage considerations, utility conflicts, constructability issues, and preliminary construction cost estimate. We understand that the County will provide utility coordination and potholing, if needed.
- **PS&E.** We will provide 30% plans, specifications, and preliminary cost estimate to the County (in PDF format) for review and comment. The plans shall consist of typical pathway cross section(s), limits of construction, utility conduits, and general layout of drainage features. We will provide a copy of our in-house QA/QC review of the 30% submittal.

The 30% design deliverables will include:

- Draft layout and cross sections of the pathway
- Limits of any retaining walls, cuts, and/or fills necessary
- Horizontal and vertical control
- Preliminary substructure plans of the abutments and piers
- Preliminary prefabricated superstructure plans
- Erection sequence and contractor laydown area
- Draft cost estimate

The following design standards will be used:

- AASHTO LRFD Guide Specification for the Design of Pedestrian Bridges (2009)
- AASHTO Policy on Geometric Design of Highways and Streets (2004)
- Caltrans Highway Design Manual
- Caltrans Traffic Manual
- California Manual on Uniform Traffic Control Devices
- Caltrans Project Development Manual
- Caltrans and FHWA Environmental Guidelines & Manuals
- Caltrans Drafting Manual
- Caltrans CADD Manual
- Caltrans Ready To List Guide
- Caltrans Survey Manual and Land Surveyor's Act
- Caltrans Bridge Design Specifications
- Caltrans Bridge Seismic Design References
- Caltrans Memo to Designers
- Caltrans Bridge Design Details
- Caltrans Seismic Design Criteria
- 2006 Caltrans Standard Plans*
- 2006 Caltrans Standard Specifications*
- Caltrans Local Assistance Procedures Manual
- Caltrans Local Assistance Program Guidelines

*We understand the County is currently considering updating standards and specifications references to 2010. We are familiar with both methods and can provide either.

Deliverables: Summary Memorandum
30% PS&E
Quality Assurance/Quality Control (QA/QC) review

Task 8: Provide 30% PS&E – Review PDT Meeting

CH2M HILL will participate in a meeting or telephone conference to review the 30% submittal and any comments, or concerns. We will summarize comments into a table with responses provided for each comment. Design changes will be incorporated as part of the final 65% PS&E deliverable.

Deliverables: 30% review meeting minutes
Summary of 30% plan comments and responses

Task 9: Provide 65% PS&E

The 65% PS&E submittal will contain the following items:

- **Summary Memorandum.** We will provide an updated summary memorandum.
- **PS&E.** We will provide 65% plans, specifications, and preliminary cost estimate (in PDF format) for review and comment. We will provide a copy of our in-house QA/QC review of the 65% plans, specs and estimate

The 65% design deliverables will include:

- Layout and cross sections of the pathway
- Limits of any retaining walls, cuts, and/or fills necessary
- Horizontal and vertical control
- Preliminary Substructure Plans of the abutments and piers
- Preliminary prefabricated superstructure plans
- Erection sequence and contractor laydown area
- Draft technical specifications
- Draft cost estimate
- Draft project schedule in Microsoft Project format
- Any design exceptions needed.

Deliverables: Summary Memorandum
65% PS&E
QA/QC review

Task 10: Provide 65% PS&E – Review PDT Meeting

CH2M HILL will participate in a meeting or telephone conference to review the 65% submittal and discuss any comments or concerns. We will summarize comments into a table with responses provided for each comment. Design changes will be incorporated as part of the final 100% PS&E deliverable.

Deliverables: 65% review meeting minutes
Summary of 65% plan comments and responses

Task 11: Provide 100% PS&E

CH2M HILL will provide a 100% PS&E submittal to the County (in PDF format) for review and comment which incorporates comments from County review and environmental considerations, is ready for construction, and conforms to Caltrans Plans Preparation Manual and County comments.

The 100% PS&E submittal will contain the following items:

- Plans
 - Layout and cross sections of the pathway
 - Limits of any retaining walls, cuts, and/or fills necessary
 - Horizontal and vertical control
 - Substructure Plans of the abutments and piers
 - Prefabricated superstructure plans
 - Erection sequence and contractor laydown area
 - Applicable quantity placed on the plans.
- Specifications (in County/Caltrans format)
 - Technical specifications
 - Data to be inserted into the County boilerplate including number of working days and liquidated damages
- 100% design construction cost estimate
 - Bid sheet/cost estimate (in Caltrans “BEES” format)
 - Other known costs to be considered during construction
- MS Project Schedule (Final)
- QA/QC review
 - We will provide a copy of our in-house review of the 100% PS&E

Deliverables: 100% PS&E
Final Contract documents in PDF format
Final AutoCAD files

Task 12: Provide 100% PS&E – Review PDT Meeting

CH2M HILL will participate in a meeting or telephone conference to review the 100% submittal and discuss any comments or concerns. We will summarize comments into a table with responses provided for each comment. Design changes will be incorporated as part of the final PS&E deliverable.

Deliverables: 100% review meeting minutes
Summary of 100% plan comments and responses

Task 13: Provide Final PS&E

County comments will be incorporated into the final PS&E deliverable.

Deliverables: Final signed and sealed contract documents on hard copy 11- by 17-inch sheets, and electronic (PDF, MS Word, and MS Excel) formats
AutoCAD electronic design/plan files
Resident Engineer pending file in Word format

Items Provided By County

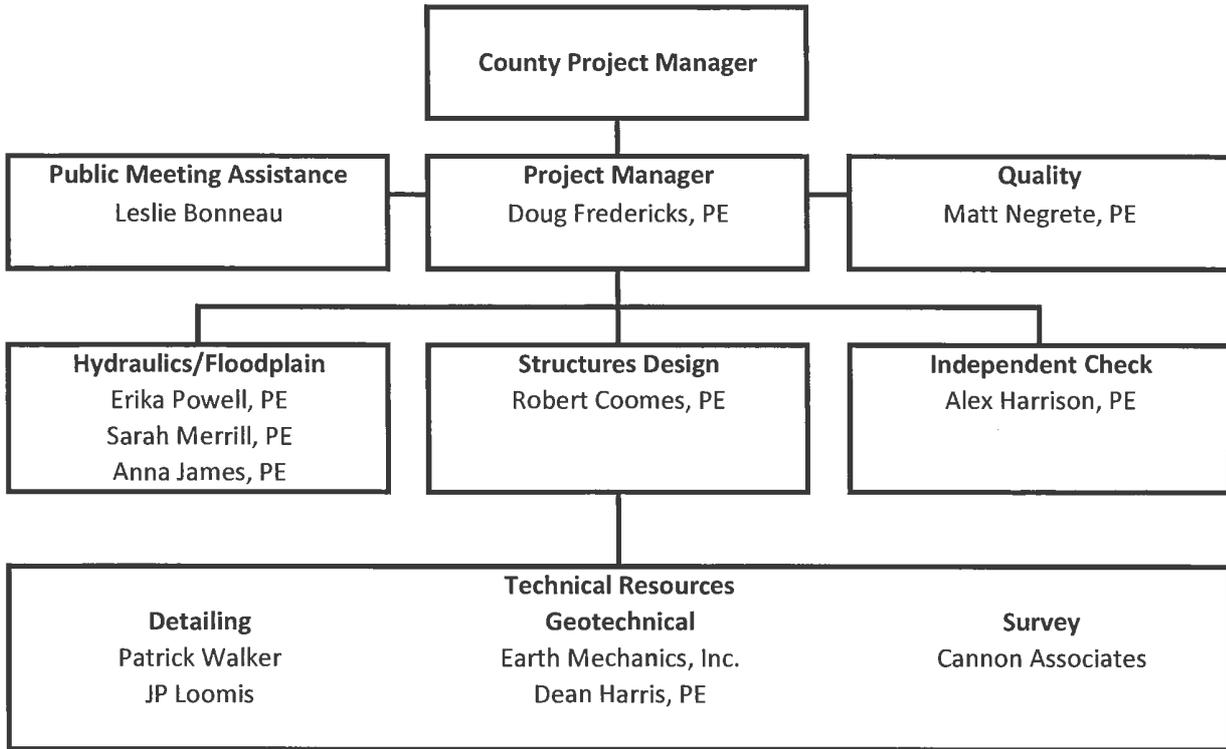
It is our understanding that the County will provide the following:

- Environmental studies/permits
- Existing utility atlas Information (water, sewer, phone, CATV, gas, elec.)
- Utility coordination including Final Notice letter
- Utility potholing (if needed)
- National Pollutant Discharge Elimination System (NPDES) compliance special provision language/documents
- Existing bridge as-builts
- Existing Bridge Inspection Report
- Existing Bridge Inspection Report with as-builts for seismic retrofit project
- Log of borings for Tract 2451 (an adjacent development)

Scope of Work Assumptions

The following assumptions have been made as part of the development of this scope of work and are being highlighted to further define expectations and limits of tasks for the work:

1. We have assumed one County review for each deliverable. CH2M HILL will incorporate County review comments into the next submittal.
2. The County will perform all public involvement, including distribution and posting of environmental reports and studies.
3. No services during construction, resident engineering, inspection, or materials testing is included in this proposal
4. No curb and gutter, drainage inlets, or cross drainage is required at the pathways.



**Proposal for Pedestrian Bridge at San Juan Creek
Shandon County
WBS 300485**

Cost Proposal

Contract No.

Consultant **Earth Mechanics, Inc.**

Classification	Name	Hourly Salary Range	Hours	Initial Hourly Rate	Total
Principal/PM	Hubert Law	\$76.50 - 76.50	33	@ \$ 76.50	\$ 2,524.50
Senior Project Engineer	Amir Zand	\$43.50 - 46.80	85	@ \$ 46.80	\$ 3,978.00
Project Geologist	Jody Castle	\$37.00 - 44.00	58	@ \$ 44.00	\$ 2,552.00
Senior Technician	Jianmin Fang	\$32.00 - 33.75	28	@ \$ 33.75	\$ 945.00
	Subtotal			Subtotal Direct Labor Cost	\$ 9,999.50
				Anticipated Salary Increases	\$ 299.99
				Total Direct Labor Costs	\$ 10,299.49
				Rate	Total
Fringe Benefits				Included in OH	
Indirect Costs					
Overhead				172.42%	\$ 17,758.37
General and Administrative				Included in OH	
				Total Indirect Labor Costs	<u>\$ 17,758.37</u>
FEE (profit)				10.00%	<u>\$ 1,775.84</u>
OTHER COSTS					
Drilling Rig Rental					\$ 6,000.00
Travel/Mobilization					\$ 500.00
Laboratory Soil Testing					\$ 4,000.00
Field Supplies					\$ 100.00
Shipping					\$ 50.00
				Total Other Costs	<u>\$ 10,650.00</u>
Subcontractor Costs (attach detailed cost estimate for each subcontractor)					\$ -
TOTAL COST					<u>\$ 30,184.21</u>

**Proposal for San Juan Creek Pedestrian Bridge at Shandon
Bridge Independent Check and Environmental Services
WBS 300485**

Cost Proposal

Contract No.

Consultant Cannon Corp. - Land Survey Division

Classification	Name	Hourly Salary Range	Hours	Initial Hourly Rate	Total
Survey Director	Lester E. Carter Jr.	\$ 55.00 - 70.00	6 @	\$ 57.00	\$ 342
Chief Land Surveyor	Dan Hutchinson	\$ 50.00 - 60.00	12 @	\$ 55.00	\$ 660
Survey Party Chief	Bob Chanley	\$ 28.00 - 38.00	24 @	\$ 38.00	\$ 912
Survey Crew Member	Jesse Russell	\$ 22.00 - 36.00	24 @	\$ 27.70	\$ 665
CAD Drafter	Jason Harless	\$ 22.00 - \$36.00	16 @	\$ 29.00	\$ 464
Administrative Assistant	Olga Watkins	\$ 22.84 - 74.92	8 @	\$ 25.45	\$ 204
	Subtotal			Subtotal Direct Labor Costs	\$ 3,246
				Anticipated Salary Increases	\$ -
				Total Direct Labor Costs	\$ 3,246
Fringe Benefits				Rate Included in OH	Total
Indirect Costs				Included in OH	
Overhead (Calculated IRC)				154.00%	\$ 4,999
General and Administrative				Included in OH	
				Total Indirect Labor Costs	\$ 4,999
FEE (Profit)				10%	\$ 825
OTHER COSTS					
Aerial Mapping and Ortho-Photo					\$ 2,800
Reprographics/Shippng					\$ -
Health & Safety Service Center					\$ -
				Total Other Costs	\$ 2,800
TOTAL COST					\$ 11,870